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*Brandon Price*

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

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| **MICHAEL SAINT-MARTIN, an individual; and JOHN DOE, an individual,**<br>Plaintiffs,<br>**v.**<br>**BRANDON PRICE, in his official capacity as Executive Director of Department of State Hospitals - Coalinga; and DOES 1 through 10, inclusive,**<br>Defendants. | 1:18-cv-00123-DAD-SKO<br>**DEFENDANT PRICE'S INITIAL STATEMENT OF RULE 26 DISCLOSURES**<br>Judge: The Honorable Dale A. Drozd<br>Action Filed: January 23, 2018 |

Defendant Brandon Price provides the following disclosure of witnesses and documents, in accord with Rule 26 of the Federal Rules of Civil Procedure. Defendant Price reserves the right to supplement this disclosure statement with any information obtained through informal investigation and/or discovery.

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## I. NAMES OF INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION/SUBJECT OF INFORMATION

Defendant Price identifies the following individuals as those who may have discoverable information. Defendant Price reserve the right to rely on additional witnesses as further facts and information are discovered.

### A. Chart of Anticipated Witnesses

| Name | Position/Address | Anticipated Testimony |
|---|---|---|
| Brandon Price | Executive Director of DSH-Coalinga<br><br>Department of State Hospitals - Coalinga<br>24511 West Jayne Ave.<br>P. O. Box 5000<br>Coalinga, CA 93210-5000<br>Public (559) 935-4300<br>Fax (559) 935-7118 | Administrative searches and criminal prosecution of DSH-Coalinga patients for possession and/or dissemination of contraband electronic materials (child pornography and/or copyrighted material) before and after promulgation of 2018 amendments to section 4350; confiscation of such contraband electronic materials before and after promulgation of 2018 amendments to section 4350; DSH-Coalinga's enforcement of own policies concerning patient's possession of computers, cell phone, and other electronic devices including moratorium); DSH-Coalinga's enforcement of 2009 version of section 4350 of title 9 and its implementation of 2018 amendment of section 4350; response to plaintiffs' allegations re DSH-Coalinga's staff alleged retaliatory acts for plaintiff's political activity around Measure C and for outcome of Measure C; purpose and timeframe of promulgation and implementation of amendments to section 4350 |

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|---|---|---|
| David Landrum | Chief of Law Enforcement<br><br>Office of Protective Services<br>Department of State Hospitals-Sacramento<br>1600 9th Street, Room 350<br>Sacramento, CA 95814 | Administrative searches and criminal prosecution of DSH-Coalinga patients for possession and/or dissemination of contraband electronic materials (child pornography and/or copyrighted material) before and after promulgation of 2018 amendments to section 4350; confiscation of such contraband electronic materials from DSH patients before and after promulgation of 2018 amendments to section 4350 by DSH facilities; DSH facilities' enforcement of own policies concerning patient's possession of computers, cell phone, and other electronic devices (including moratorium); DSH facilities' (including DSH-Coalinga) enforcement of 2009 version of section 4350 of title 9 and its implementation of 2018 amendment of section 4350; response to plaintiffs' allegations re DSH-Coalinga's staff alleged retaliatory acts for plaintiff's political activity around Measure C and for outcome of Measure C; purpose and timeframe of promulgation and implementation of amendments to section 4350 throughout DSH statewide; coordination of DSH Police Services with Fresno District Attorney's Office and Internet Crimes Against Children Task Force to address patients' possession of child pornography, coordination of DSH resources in January 2018 lockdown at DSH-Coalinga; coordination with DSH-Coalinga Chief Carter and his staff concerning issues arising from electronic contraband and |

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|---|---|---|
| | | implementation of section 4350 of title 9. |
| Jack Carter | Chief of Department of Police Services, DSH-Coalinga<br><br>Department of State Hospitals - Coalinga<br>24511 West Jayne Ave.<br>P. O. Box 5000<br>Coalinga, CA 93210-5000<br>Public (559) 935-4300<br>Fax (559) 935-7118 | Administrative searches and criminal prosecution of DSH-Coalinga patients for possession and/or dissemination of contraband electronic materials (child pornography and/or copyrighted material) before and after promulgation of 2018 amendments to section 4350; confiscation of such contraband electronic materials before and after promulgation of 2018 amendments to section 4350; DSH-Coalinga's enforcement of own policies concerning patient's possession of computers, cell phone, and other electronic devices (including moratorium); DSH-Coalinga's enforcement of 2009 version of section 4350 of title 9 and its implementation of 2018 amendment of section 4350; response to plaintiffs' allegations re DSH-Coalinga's staff alleged retaliatory acts for plaintiff's political activity around Measure C and for outcome of Measure C; purpose and timeframe of promulgation and implementation of amendments to section 4350; coordination of DSH Police Services with Fresno District Attorney's Office and Internet Crimes Against Children Task Force to address patients' possession of child pornography |
| Sgt. Jerry Duvall | Department of Police Services, DSH-Coalinga<br>Department of State Hospitals - Coalinga<br>24511 West Jayne Ave.<br>P. O. Box 5000<br>Coalinga, CA 93210-5000<br>Public (559) 935-4300<br>Fax (559) 935-7118 | Administrative searches and criminal prosecution of DSH-Coalinga patients for possession and/or dissemination of contraband electronic materials (child pornography and/or copyrighted material) before and after promulgation of 2018 amendments to section 4350; |

| | | |
|---|---|---|
| | | confiscation of such contraband electronic materials; re-victimization by patients' possession of child pornography; coordination of DSH Police Services with Fresno District Attorney's Office and Internet Crimes Against Children (ICAC) Task Force to address patients' possession of child pornography |
| Greg Anderson | Senior Deputy District Attorney, Fresno County District Attorney's Office | January 16, 2018 memorandum to DSH-Coalinga staff; prosecution of DSH-Coalinga patients for possession and/or dissemination of contraband electronic materials (child pornography and/or copyrighted material) before and after promulgation of 2018 amendments to section 4350, re-victimization by patients' possession of child pornography; role of Fresno District Attorney and ICAC in addressing and prosecuting child pornography; purpose and timeframe of promulgation and implementation of amendments to section 4350; coordination of Fresno District Attorney's Office with DSH Police Services and Internet Crimes Against Children Task Force to address patients' possession of child pornography |
| Stirling Price | Executive Director of DSH-Atascadero<br><br>Department of State Hospitals - Atascadero<br>10333 El Camino Real<br>P.O. Box 7001<br>Atascadero, CA 93423-7001<br><br>Public (805) 468-2000<br>TDD (805) 468-2009<br>Fax (805) 466-6011 | Administrative searches of DSH-Atascadero patients for possession and/or dissemination of contraband electronic materials before and after promulgation of 2018 amendments to section 4350; confiscation of such contraband electronic materials possessed by patients before and after 2018 amendments to section 4350 of title 9; DSH-Atascadero's own policies and enforcement of own policies concerning patient's possession of computers, cell |

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| | | phone, and other electronic devices; DSH-Atascadero's enforcement of 2009 version of section 4350 of title 9 and its implementation of 2018 amendment of section 4350 of title 9. |
| Norman T. Kramer | Executive Director (Acting) of DSH-Napa<br><br>Department of State Hospitals - Napa<br>2100 Napa-Vallejo Highway<br>Napa, CA 94558-6293<br>Public (707) 253-5000<br>TDD (707) 253-5768<br>Fax (707) 253-5411 | Administrative searches of DSH-Napa patients for possession and/or dissemination of contraband electronic materials before and after promulgation of 2018 amendments to section 4350; confiscation of such contraband electronic materials; DSH-Napa's policies and enforcement of own policies concerning patient's possession of computers, cell phone, and other electronic devices; DSH-Napa's enforcement of 2009 version of section 4350 of title 9 and its implementation of 2018 amendment of section 4350 of title 9. |
| Nady Hanna, M.D. | Executive Director (Acting) of DSH-Metropolitan<br><br>Department of State Hospitals - Metropolitan LA<br>11401 South Bloomfield Avenue<br>Norwalk, CA 90650<br><br>Public (562) 863-7011<br>TDD (562) 863-1743<br>Fax (562) 929-3131 | Administrative searches of DSH-Metropolitan patients for possession and/or dissemination of contraband electronic materials before and after promulgation of 2018 amendments to section 4350; confiscation of such contraband electronic materials; DSH-Metropolitan's policies and enforcement of own policies concerning patient's possession of computers, cell phone, and other electronic devices; DSH-Metropolitan's enforcement of 2009 version of section 4350 of title 9 and its implementation of 2018 amendment of section 4350 of title 9. |
| Michael Barsom, M.D. | Executive Director (Acting) of DSH-Patton<br><br>Department of State Hospitals - Patton | Administrative searches of DSH-Patton patients for possession and/or dissemination of contraband electronic materials before and after promulgation of |

| | | |
|---|---|---|
| | 3102 East Highland Ave<br>Patton, CA 92369<br>Public (909) 425-7000<br>TDD (909) 862-5730<br>Fax (909) 425-6169 | 2018 amendments to section 4350; confiscation of such contraband electronic materials; DSH-Patton's enforcement of own policies concerning patient's possession of computers, cell phone, and other electronic devices; DSH-Patton's enforcement of 2009 version of section 4350 of title 9 and its implementation of 2018 amendment of section 4350 of title 9. |
| George Maynard | Deputy Director, Department of State Hospitals<br><br>Strategic Planning & Implementation<br>Department of State Hospitals, Sacramento<br>1600 9th Street, Room 400<br>Sacramento, CA 95814 | The promulgation of the 2009 amendments to section 4350 of title 9; the DSH statewide contraband list(s) before after the promulgation of the 2018 amendments to section 4350 of title 9 |

**B. Reservation**

Defendant reserves the right to use and rely upon the witnesses identified by other parties to this action and/or in documents produced in discovery in this action. By listing witnesses, Defendant is not waiving their rights to assert any claim of privilege or other objections to the admissibility of their testimony.

**II. IDENTIFICATION OF DOCUMENTS LIKELY TO HAVE DISCOVERABLE INFORMATION**

Defendant Brandon Price identifies the following documents (batestamped DSH001-DSH083) as those that may have discoverable information. This Defendant reserves the right to rely on additional documents, including those identified by other parties, as further facts and information are discovered.

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## A. Documents Produced in this Disclosure Statement

The following documents are produced herein:[1]

| Page | Title | Date |
|---|---|---|
| DSH001 | The Department of Mental Health's (a predecessor agency of DSH) Notice of Emergency Amendments and Finding of Emergency for Emergency Regulations for Electronic Patient Property | 10.26.09 |
| DSH013 | California Code of Regulations, title 22, section 4350, effective 2009. | 2009 |
| DSH015 | DSH's Statewide Property Contraband List, revised February 5, 2014 | 2.5.14 |
| DSH019 | DSH's Statewide Property Contraband List, revised April 2, 2014 | 5.2.14 |
| DSH022 | DSH-Coalinga's Contraband List, dated April 5, 2006 | 5.5.06 |
| DSH027 | DSH-Coalinga's Contraband List, dated July 9, 2007 | 7.9.07 |
| DSH034 | DSH-Coalinga's Contraband List, revised August 2, 2012 | 8.2.12 |
| DSH042 | DSH-Coalinga's Contraband List, dated April 18, 2014 | 5.18.14 |
| DSH044 | DSH-Coalinga Administrative Directive 418, dated August 13, 2013 | 8.13.13 |
| DSH047 | DSH-Coalinga Administrative Directive 418, dated August 12, 2014 | 8.12.14 |
| DSH050 | DSH-Coalinga Administrative Directive 626, dated August 9, 2006 | 8.9.06 |
| DSH056 | DSH-Coalinga Administrative Directive 654, dated November 9, 2006, with Attachments A and B | 11.9.06 |
| DSH062 | DSH-Coalinga Administrative Directive 818, dated April 5, 2006 | 4.5.06 |
| DSH066 | DSH-Coalinga Administrative Directive 818, dated July 12, 2007 | 7.12.07 |
| DSH070 | The DSH-Coalinga Patient Care Policy Committee Minutes for February 13, 2018, showing that Administrative Directive 654 was withdrawn on March 13, 2018 | 3.13.18 |
| DSH072 | DSH-Coalinga's moratorium statement re individual owned computer equipment – immediate moratorium on new purchases | 2.28.07 |
| DSH073 | 2007 OAL Determination No. 23 (OAL File # CTU 2008-0314-01), requested by Michael Saint-Martin re Administrative Directive 818 | 2007 |
| DSH081 | DSH-Napa Hospital's Specific Contraband List, effective July 24, 2014 | 7.24.14 |

[1] Certain electronic docket and exhibit markings have been redacted to avoid confusion.

**B. Documents Previously Disclosed in Pleadings**

| Pleading | | Date |
|---|---|---|
| CD1 Complaint | Department of State Hospitals' Notice of Emergency Amendments and Finding of Emergency for Emergency Regulations for Electronic Patient Property, filed on December 22, 2017. | 12.22.17 |
| CD 7 Oppo. Mot. TRO | Department of State Hospitals' Notice of Emergency Amendments and Finding of Emergency for Emergency Regulations for Electronic Patient Property, filed on January 2, 2018, with List of Commenters and Comments | 1.2.18 |
| CD 7 Oppo. Mot. TRO | The Notice of Approval of DSH's Emergency Regulatory Action regarding section 4350 of title 9 of the California Code of Regulations, issued by the Office of Administrative Law (OAL) on January 12, 2018 | 1.12.18 |
| CD 7 Oppo. Mot. TRO | The January 12, 2018 memorandum from Executive Director Brandon Price to Department of State Hospitals-Coalinga patients concerning the enforcement of the amended section 4350 of title 9 | 1.12.18 |
| CD 7 Oppo. Mot. TRO | Memorandum dated January 16, 2018 from Greg Anderson, Senior Deputy District Attorney, Fresno County District Attorney's Office, to all patients, staff and law enforcement at DSH-Coalinga. | 1.16.18 |
| CD 7 Oppo. Mot. TRO | The January 18, 2018 memorandum from Executive Director Brandon Price to Department of State Hospitals-Coalinga patients concerning the enforcement of the amended section 4350 of title 9 | 1.18.18 |
| CD 7 Oppo. Mot. TRO | DSH Letter to Los Angeles Superior Court Judge Bianco | 1.22.18 |
| CD 16, Mot. Dismiss | California Code of Regulations, title 22, section 4350, effective 2009 | 2009 |
| CD 7 Oppo. Mot. TRO | California Code of Regulations, title 22, section 4350, effective January 2018 | 2017 |
| CD 16, Mot. Dismiss | Docket of the pending action entitled, *Vosburg v. County of Fresno*, Fresno County Superior Court, case 17CECG04294 (defendant reserves the right to introduce an updated docket, and any pleadings, discovery, or testimony from this action) | 2018 |
| CD 4-1, Mot. TRO | Declaration of John Doe | 1.24.18 |
| CD 4-1, Mot. TRO | Declaration of Michael Saint Martin | 1.24.18 |

**C. Reservation**

Defendant Price reserves the right to use and rely upon the documents identified by other parties to this action and/or documents produced in discovery in this action. By listing and

producing the documents, Defendant Price is not waiving his right to assert any claim of privilege or other objections to the admissibility of the documents. Any inadvertent disclosure of privileged materials shall not constitute a waiver of the claim of privilege.

## III. COMPUTATION OF DAMAGES

Not applicable to this defendant.

## IV. ANY INSURANCE AGREEMENT THAT MAY BE USED TO SATISFY ANY OR ALL OF A POSSIBLE JUDGMENT OR TO INDEMNIFY OR REIMBURSE FOR PAYMENTS.

The Department of State Hospitals is self-insured, and indemnifies its employees pursuant to Government Code section 825.

Dated: July 3, 2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ISMAEL A. CASTRO
Supervising Deputy Attorney General

LISA A. TILLMAN
Deputy Attorney General
*Attorneys for Defendant*
*Brandon Price*

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# EMERGENCY

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

| OAL FILE NUMBERS | NOTICE FILE NUMBER | REGULATORY ACTION NUMBER | EMERGENCY NUMBER |
|---|---|---|---|
| | Z- | | 2009-1015-04E |

For use by Office of Administrative Law (OAL) only

2009 OCT 15 PM 2:56
OFFICE OF ADMINISTRATIVE LAW

NOTICE | REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: Dept. of Mental Health

AGENCY FILE NUMBER (if any):

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE
☐ Notice re Proposed Regulatory Action ☐ Other

4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional)

OAL USE ONLY — ACTION ON PROPOSED NOTICE: ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn | NOTICE REGISTER NUMBER | PUBLICATION DATE

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)
State Hospital Operations

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT: Sections 4100, 4105, 4205, 4210, 4300, 4310, 4315, 4320, 4325, 4330, 4340, 4350, 4400, 4415, & 4420.

AMEND: Section 864

REPEAL:

TITLE(S): Title 9

3. TYPE OF FILING
- ☐ Regular Rulemaking (Gov. Code §11346)
- ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- ☒ Emergency (Gov. Code, §11346.1(b))
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- ☐ Emergency Readopt (Gov. Code, §11346.1(h))
- ☐ File & Print
- ☐ Other (Specify)
- ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- ☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
- ☐ Effective 30th day after filing with Secretary of State
- ☒ Effective on filing with Secretary of State
- ☐ §100 Changes Without Regulatory Effect
- ☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
- ☐ Department of Finance (Form STD. 399) (SAM §6660)
- ☐ Fair Political Practices Commission
- ☐ State Fire Marshal
- ☐ Other (Specify)

7. CONTACT PERSON: Jon Cordova | TELEPHONE NUMBER: (916) 651-1446 | FAX NUMBER (Optional): (916) 651-3862 | E-MAIL ADDRESS (Optional): DMH.Regulations@dmh.ca.gov

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE | DATE: 8/11/09

TYPED NAME AND TITLE OF SIGNATORY: Stephen W. Mayberg, Ph.D., Director, Department of Mental Health

For use by Office of Administrative Law (OAL) only

TITLE 9. REHABILITATIVE AND DEVELOPMENTAL SERVICES

DIVISION 1. DEPARTMENT OF MENTAL HEALTH

CHAPTER 16. STATE HOSPITAL OPERATIONS

ARTICLE 1. GENERAL PROVISIONS

**§ 4100. Application of Chapter**

The regulations set forth in Chapter 16 are applicable to all facilities owned and operated by the Department of Mental Health.

**Authority:** Welfare & Institutions Code Sections 4005.1, 4027 and 4101
**Reference:** Welfare and Institutions Code Sections 4027 and 4101

**§ 4105. Definitions**

(a) The terms, "state hospital," or "facility," as used in this chapter shall mean "any hospital owned and operated by the Department of Mental Health."

(b) The terms, "individual patient," or "patient," as used in this chapter shall mean "any state hospital patient who is committed to and/or receiving treatment in a state hospital."

**Authority:** Welfare & Institutions Code Sections 4005.1, 4027 and 4101
**Reference:** Welfare and Institutions Code Sections 4027 and 4101

ARTICLE 2. TREATMENT

**Section 4210. Interim Involuntary Medication Hearing Procedures Regarding Individual Patients at State Hospitals**

(a) State hospitals may conduct administrative hearings on hospital grounds to determine the necessity to administer non emergency interim involuntary antipsychotic medication to an individual patient pursuant to the applicable legal standard for each category of individual patient. The appropriate court hearing as required by applicable law shall be requested as soon as possible by the state hospitals concurrent with, or subsequent to, the administrative hearing.

(b) Before initiating the administrative hearing process, the individual patient's treating physician must first determine that involuntary medication is appropriate, inform the individual patient of such diagnosis, explain why medication is

**§ 4350. Contraband Electronic Devices With Communication and Internet Capabilities**

Electronic devices with the capability to connect to a wired (for example, Ethernet, POTS, Fiber Optic) and/or a wireless (for example, Bluetooth, Cellular, Wi-Fi [802.11a/b/g/n], WiMAX) communications network to send and/or receive information are prohibited, including devices without native capabilities that can be modified for network communication. The modification may or may not be supported by the product vendor and may be a hardware and/or software configuration change. Some examples of the prohibited devices include desktop computers, laptop computers, cellular phones, electronic gaming devices, personal digital assistant (PDA), graphing calculators, and radios (satellite, shortwave, CB and GPS).

**Authority:** Welfare and Institutions Code Sections 4005.1, 4027 and 4101
**Reference:** Title 9, California Code of Regulations Section 884 (b)(1)

## ARTICLE 4. SUPPORT SERVICES

**§ 4415. Definition of Mail**

Mail is defined as paper documents sent in a standard sized, legal sized, or special handling envelope (Priority mail, express mail, etc.) with a weight of 16 ounces or less, and thickness of ½ inches or less.

**Authority:** Welfare and Institutions Code Sections 4005.1, 4027 and 4101
**Reference:** Welfare and Institutions Code Section 5326 and Title 9, California Code of Regulations Section 884 (b)(6)

**§ 4420. Limitations on Size, Weight, Volume and Frequency/Number of Packages Allowed**

This section constitutes the formal facility policy on the size, weight, volume and frequency/number of packages allowed.

(a) All send or received items that do not fall under the definition of "Mail" in Section 4415 of these regulations constitute packages.

(b) Each package sent and each package received shall not be more than 24 inches long by 19 inches in length by 12 inches high, and shall weigh no more than 30 pounds.

# FINDING OF EMERGENCY

A. Department of Mental Health Finding That Emergency Regulatory Action Is Necessary

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

B. Description of Specific Facts Which Constitute The Emergency

The Department of Mental Health (DMH) and the Office of Administrative Law (OAL) Have Been Inundated with Petitions Challenging DMH's Rules and Procedures as Underground Regulations

Since August 2007, DMH and its state mental hospitals have received 34 underground regulations challenges to their special orders, administrative directives, manuals and memoranda, and one motion for a temporary restraining order filed with the California Supreme Court challenging a version of the standardized assessment protocol that was being used to assess whether a person is a sexually violent predator.

To date, the OAL has denied a dozen or so of these underground regulations challenge petitions. These petitions have challenged hospital administrative directives on the topics of: the wellness and recovery planning team and manual; the clinical outcome evaluation system; research; treatment intervention; facility plan for services; computer moratorium; transfer to the California Department of Corrections and Rehabilitation Pursuant to Welfare and Institutions Code Section 7301; individual's mail and incoming packages; access to court and legal research materials; physical restraint; behavioral seclusion or restraint; the psychiatric physician manual, spending limit, trust office, search policies and procedures, and cost of care implementation.

However, OAL has made eight determinations of underground regulations. The eight OAL determinations of underground regulations involve hospital administrative directives and DMH's special order on matters dealing with individual patients' property and storage, contraband, individual patients' mail and packages, necessary involuntary administration of antipsychotic medication, the standardized assessment protocol used in evaluating whether a person is a sexually violent predator, and the "By Choice" incentive system.

In response to three other petitions, DMH has withdrawn from use one hospital administrative directive regarding rights of individuals served, one special order regarding research proposal review policy, and a version of the standardized assessment protocol used to evaluate whether a person is a sexually violent predator.

Other petitions are pending OAL's review or consideration. These petitions challenge DMH's policy against contraband, mail and packages, search policies and procedures, and generally on all subjects covered by the special orders and administrative directives. The number of underground regulations petition challenges is anticipated to continue to increase.

The Necessity for the Proposed Regulations

DMH and its state hospitals are responsible for the execution of the laws relating to the care and custody of mentally disordered persons. The proposed regulations are necessary to effectuate the statutes relating to such care and custody of mentally disordered persons, as well as to clearly set forth in regulations the necessary legal requirements in order to ensure that DMH will not be hampered in its ability to carry out its responsibilities, and to ensure that the individual patients' and the public's safety and security will not be compromised by underground regulations challenges that have occurred and will continue to occur. The proposed regulations address the important safety and security topics of visitation of individual patients, state mental hospital police services, offsite transportation, complains against hospital policy officers, counting of individual patients, contraband electronic devices and interment of unclaimed deceased individual patients. These emergency regulations also address the individual patients' well being issues regarding mail and packages, spending limits, patient's rights complaints, and in house hearing procedures regarding medication of mentally disordered offenders.

Regarding the proposed regulations concerning contraband electronic devices, there has been an influx of cell phones and wireless devices into DMH state hospitals. The use of wireless communication devices in DMH state hospitals presents a security risk by circumventing monitoring processes instituted to ensure patient, staff, and public safety. All DMH state hospitals report increasing numbers of contraband wireless communication devices among the patient population which are being inappropriately used to import illegal pornographic materials, facilitate contraband exchanges, communicate with external and internal individuals, and otherwise pose significant safety and security risks. One particular DMH hospital that specifically tracked reports involving wireless communication devices noted 19 incidents in just one month. Additionally, there was an incident at another DMH hospital where a wireless recording device was brought in and used to surreptitiously record confidential staff and patient conversations. These recordings were later smuggled to third parties outside of the state hospital.

The Finding of Emergency

DMH finds that the proposed regulations are necessary to address an emergency. An emergency is "a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare." Gov. Code Section 11342.545. Any disruption or prevention of DMH's ability to enforce the safety and security requirements, and the provisions regarding the well being of the individual patients in its

facilities, that are set forth in the proposed regulations will create serious harm to the public peace, health, safety, and general welfare.

The non-emergency rulemaking process timetable will not afford DMH with the expediency necessary to adopt regulations should a court, in giving deference to an existing or future determination of underground regulations, prohibit DMH from using the affected administrative directives or special orders that are important to safety and security and to the well being interests of the individual patients. Emergency regulations are necessary to ensure that important safety, security and individual well being interests are addressed quickly and properly through the OAL's rulemaking process once and for all.

Also, the above-described petitions and OAL determinations of underground regulations, and anticipated petitions and possible future OAL determinations of underground regulations, have drawn and will continue to draw time and attention away from, and create barriers to, the carrying out of DMH's and the state hospitals' responsibilities. A non-emergency rulemaking action would not allow DMH and its state hospitals the ability to as quickly as possible remove existing and anticipated barriers to their ability to provide the best mental health care to individual patients, and to hopefully once and for all put to rest the underground regulations petition challenges.

C. Authority and Reference Citations

Authority: Welfare and Institutions Code Sections 4005.1, 4015, 4027, 4101, 5326, and 7225

Reference: Welfare and Institutions Code Sections 4005.1, 4027, 4101, 4109, 4311-4313, 5008, 5300, 5325(a), (e), 5326, 5332, 5333, 7104 and 7232, and 6600 et seq.

Penal Code Sections 832.5, 832.7, 1026, 1367, 1370, 2600, 2684, 2962 and 2972.

Title 9, California Code of Regulations Sections 864, 884(b)(1), (6) and (7), and 885

*Keyhea v. Rushen* (1986) 178 Cal.App.3d 526; *In re Kanuri Surgury QAWI*, on Habeas Corpus (2004) 32 Cal.4th 1; *In Re Locks* (2000) 79 Cal.App.4th 890; *In Re Calhoun* (2004) 121 Cal.App.4th 1315.

D. Informative Digest and Policy Statement Overview

Policy Statement

The objective of the proposed action is to implement, interpret, or make specific the above-identified sections of the Welfare and Institutions Code, Penal Code, and amend Title 9, California Code of Regulations Sections 884 and 885 to ensure operation efficiency and compliance with all lawful requirements involving areas of safety and security, and individual patient's support services.

Existing Law

Welfare and Institutions Code Section 4005.1 provides that DMH may adopt and enforce rules and regulations necessary to carry out its duties.

Welfare & Institutions Code Section 4027 allows DMH to adopt regulations relating to patients' rights and procedures applicable to inpatient services.

Welfare and Institutions Code Section 4101 provides that all institutions under the jurisdiction of DMH shall be governed by uniform rule and regulation of DMH.

Welfare & Institutions Code Sections 4109 and 4311-4313, allow DMH to establish regulations regarding police officers in state hospitals for the enforcement of hospital rules and regulations in hospital buildings and for the preservation and protection of state property.

Welfare & Institutions Code Section 5008 contains definitions for "Evaluation," "Court-ordered evaluation," "Intensive treatment," "Referral," "Crisis intervention," "Prepetition screening," "Conservatorship investigation," "Peace Officer," "Court," "Antipsychotic medication," and "Emergency," as used in the Welfare & Institutions Code.

Welfare & Institutions Code Section 5300 specifies that after an individual patient's 14-day period of intensive treatment, the individual patient may be confined for up to an additional 180 days if any of the following exist: (a) has made a threat of bodily harm to another while in custody and presents a danger of inflicting harm on others as a result of a mental disorder; (b) has inflicted or attempted to inflict bodily harm to another while in custody; (c) the person made a serious threat within 7 days of being taken into custody and demonstrates a danger of inflicting substantial physical harm upon others.

Welfare & Institutions Code Section 5325(c), and Title 9 of the California Code of Regulations Section 884(b)(4) require that patients in state hospitals be allowed to see visitors.

Welfare & Institutions Code Section 5325(a) provides that LPS patients may spend a reasonable sum of their own money.

Welfare & Institutions Code Section 5325(e) and Title 9 of California Code of Regulations Section 884(b) (6), provide that both LPS and Non-LPS patients have a right to send and receive mail. "LPS" means that the placement in or commitment to the facility is pursuant to the Lanterman-Petris-Short (LPS) Act, commencing with Section 5000, of Part 1, Division 5 of the Welfare and Institutions Code). "Non-LPS" means that the placement in or commitment to the facility is pursuant to legal authority other than the LPS Act.

Welfare and Institutions Code Section 5326 provides that a DMH facility may, for good cause, deny a person certain rights under Section 5325.

Welfare and Institutions Code Section 5332 provides that antipsychotic medication may be administered to persons detained pursuant to section 5150, 5250, 5260 or 5270.15 when treatment staff have determined that treatment alternatives are unlikely to meet the needs of the patient. Additionally, each State Hospital is required to develop internal procedures for the facilitation of filing petitions for capacity hearings for individual patients.

Welfare and Institutions Code Section 5333 states that persons subject to a hearing on capacity pursuant to Section 5332 has a right to representation. Additionally, petitions for capacity hearings must be filed with the superior court.

Welfare and Institutions Code Sections 6600 et seq. define the term "sexually violent predator" and detail the procedures for finding that a person is a sexually violent predator, in addition to stating the requirements for confinement, post-commitment examinations, treatment and release criteria for such persons.

California Welfare & Institutions Code Section 7232, provides that state hospitals shall require individual patients to wear clothing that allows them to be readily identified.

Penal Code Sections 832.5 and 832.7, provide that there shall be a complaint process for citizens to initiate against police officers.

Penal Code Section 1026 describes the requirements for when a person may plead not guilty by reason of insanity and the commitment and placement requirements for such persons.

Penal Code Section 1367 states that a person may not be required to be tried for a felony unless certain competency requirements are met.

Penal Code Section 1370 describes the commitment procedures for a person found to be incompetent to stand trial.

Penal Code Section 2600 states that although rights may only be denied prisoners which are reasonably related to legitimate penological interests, that a hearing pursuant to *Keyhea v. Rushen* (1986) 178 Cal.App.3d 526 may permit the administration of involuntary medication, and such hearing may be conducted at the facility where the inmate is located.

Penal Code Section 2684 states that a mentally ill individual patient may be transferred from a State Prison to a State Hospital if the director of corrections determines that the individual patient's treatment would be expedited at such State Hospital.

Penal Code Section 2962 describes the commitment procedures for a paroled prisoner found to have a severe mental disorder that is not in remission and cannot be kept in remission without treatment.

Penal Code Section 2972 describes the commitment procedures upon discharge for a prisoner found to be mentally disordered. It also provides that DMH may adopt regulations to modify the rights of patients involuntarily admitted to a DMH facility.

California Health & Safety Code Section 7104, requires the coroner to take possession of the body of an indigent person for interment.

Title 9, California Code of Regulations Section 864 describes the complaint procedure and the appeal process for LPS patients.

Title 9, California Code of Regulations Section 884, parts (b)(1), (6) and (7) give patients the right to keep and use personal possessions as space permits, except items and materials that are listed as contraband, a right to have access to letter writing materials and to mail and receive correspondence, and a right to receive packages.

Title 9, California Code of Regulations Section 885 describes the complaint procedure and the appeal process for Non-LPS patients.

*In re Kanuri Surgury QAWI*, on Habeas Corpus (2004) 32 Cal.4th 1, held that "an MDO can be compelled to be treated with antipsychotic medication under the following nonemergency circumstances: (1) he is determined by a court to be incompetent to refuse medical treatment; (2) the MDO is determined by a court to be a danger to others within the meaning of Welfare and Institutions Code section 5300." That court also held that a hearing is not required for patients found to be imminently dangerous under Welfare and Institutions Code Section 5300.

*Keyhea v. Rushen* (1986) 178 Cal.App.3d 526, held that a state prisoner cannot be involuntarily given psychotropic medication for more than three days unless the prisoner is found, as a result of a mental disorder, to be (1) gravely disabled and incompetent to refuse medication, or (2) a danger to others, or (3) a danger to self. A state prisoner may be certified for additional involuntary medication up to 21 days pursuant to the requirements and procedures set forth in Section II of the *Keyhea* Injunction.

*In Re Locks* (2000) 79 Cal.App.4th 890, held that patients found not guilty by reason of insanity are not entitled to a competency hearing. "Locks had a judicial hearing under section 1026 in which he was found not guilty by reason of insanity...Section 1026 requires that he be confined in a mental hospital for treatment...By implication, section 1026.2 presumes that he is a danger to others...while Locks is being treated at a state hospital for his continuing insanity, he is not entitled to a hearing to determine his competence to refuse treatment." *Id.* at 897.

*In Re Calhoun* (2004) 121 Cal.App.4th 1315 held that sexually violent predators (SVPs) may be compelled to be treated with antipsychotic medication under certain non-emergency circumstances: "[I]n conformity with the Qawi holding concerning MDO's, we hold "that an [SVP] can be compelled to be treated with antipsychotic medication under the following nonemergency circumstances: (1) he is determined by a court to be incompetent to refuse medical treatment: (2) [he] is determined by a court to be a danger to others within the meaning of ...section 5300." *Id.* at 1354.

E. Summary of Proposed New Regulations and Amendment to Existing Regulations

Section 4100

Section 4100 describes the scope of the regulations in Title 9, Chapter 16.

Section 4105

Section 4105 contains definitions for the terms, "state hospital," "facility," "individual patient," and "patient" as used in Title 9, Chapter 16.

Section 4205

Section 4205 sets forth a patient spending limit which governs the expenditure of patients' personal funds. **(Although this explanation and the proposed regulations language of Section 4205 were included in the five-day notice of the intended filing of these emergency regulations, DMH has decided not to include Section 4205 in the emergency regulations filing. DMH wants to give further thoughts and consideration to the spending limit requirements.)**

Section 4210

Section 4210 sets forth procedures for conducting administrative hearings on state hospital grounds to determine whether individual patients may be administered medication involuntarily. Section 4210 also provides that the appropriate court hearing as required by applicable law shall be requested as soon as possible by the state hospitals concurrent with, or subsequent to, the administrative hearing. Subsection (a) states that State Hospitals may conduct hearings to determine whether individual patients may be given interim involuntary antipsychotic medication. Subsection (b) states the prerequisite requirements which must be met before the administrative hearing process may be initiated. Subsection (c) describes the criteria for the administrative hearing including the requirements for: (1) patient notice; (2) hearing panel members; (3) evidence to be presented by the State Hospital; (4) evidence which may be presented by the patient; (5) patient representation; (6) panel decision-making; (7) appeal process; and (8) duration and effect of the panel's decision. Subsection (d) specifies that this regulation shall not affect any existing patient's right to judicial review of these proceedings; and Subsection (e) specifies that this regulation shall not affect any existing legal authority of the state hospital to involuntarily medicate these patients in emergency situations.

Section 4330 sets forth the procedures in counting individual patients of state hospitals. Subsection (a) specifies the number of counts that must be performed each day. Subsection (b) proscribes the scope of counts.

Section 4340

Section 4340 sets forth the protocol for interment of unclaimed deceased individual patients in state hospitals. Subsection (a) states that if a patient has an advance directive, then it must be followed. Subsection (b) states the procedures for interring the patient with a relative or the coroner if the patient does not have an advance directive.

Section 4350

Section 4350 identifies as a prohibited contraband wired and/or wireless electronic devices that have communication and/or internet capabilities, and provides examples of such prohibited electronic devices.

Section 4400

Section 4400 sets forth the procedures for patients to submit a complaint. This section also sets forth requirements for information which must be contained in the written patient's rights complaint and optional complaint form. Subsection (a) specifies the process for a patient to file a patient's rights complaint. Subsection (b) specifies what content must be on an optional complaint form. **(Although this explanation and the proposed regulations language of Section 4400 were included in the five-day notice of the intended filing of these emergency regulations, DMH has decided not to include Section 4400 in the emergency regulations filing. DMH wants to give further thoughts and consideration to the exact language and approach regarding written patient's rights complaint requirements.)**

Section 4415

Section 4415 sets forth the formal facility policy on the dimensions, weight and volume of mail allowed as such policy is required pursuant to Title 9, California Code of Regulations Section 884 (b)(6).

Section 4420

Section 4420 sets forth the formal facility policy on the dimensions, weight, volume, and number of packages allowed as such policy is required pursuant to Title 9, California Code of Regulations Section 884 (b)(7). Subsection (a) gives the definition of "packages", as differentiated from "mail." Subsection (b) gives the maximum dimensions and weight of packages. Subsection (c) allows the hospital to limit the volume of a patient's packages in certain circumstances. Subsection (d) states that packages sent to the facility that are not within the limits set forth in subsection (b) and (c) above shall be returned to the sender. Subsection (e) states that these limitations do

not apply to confidential mail. **(Please note that a non substantive change was made to correct a cross reference error in the earlier noticed version of subsection (a) of Section 4420. Subsection (a) of Section 4420 had referenced the definition in "Section 4415 (a)". As Section 4415 is only one sentence and does not have a subsection (a), the notation "(a)" was removed in the cross reference.)**

Amendment to Title 9, California Code of Regulations Section 864

Section 864 is being amended, by adding a subsection (e) to clarify that the procedures in section 864 do not apply to state hospitals, but that the complaint procedures for LPS state hospital patients are the same as those set forth in Title 9, California Code of Regulations Section 885 for Non-LPS state hospital patients.

F. Technical, Theoretical, and Empirical Study or Report

None

G. Determinations

The Substantial Difference from Existing Comparable Federal Regulations or Statute. None.

Mandates on Local Agencies or School Districts. None.

Mandate Requires State Reimbursement Pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. None.

Costs to Any Local Agency or School District that Requires Reimbursement Pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. None

Non-discretionary Costs or Savings Imposed on Local Agencies. None.

Costs or Savings to Any State Agency. None

Costs or Savings in Federal Funding to the State. None.

Costs or Savings to Individuals or Businesses. None.

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2010 CA REG TEXT 208301 (NS)

California Regulation Text - Netscan
9 CA ADC 4350
Regulations Filed with the Secretary of State
May 07, 2010
Effective: October 26, 2009
Department of Mental Health

This rulemaking is the certificate of compliance for 2009-1015-04E that added in title 9 a new chapter 16 titled, 'State Hospital Operations' and adopted new section 4350 dealing with contraband electric devices.
TITLE 9. REHABILITATIVE AND DEVELOPMENTAL SERVICES

DIVISION 1. DEPARTMENT OF MENTAL HEALTH

CHAPTER 16. STATE HOSPITAL OPERATIONS

ARTICLE 3. SAFETY AND SECURITY

This database is current through 4/30/10 Register 2010, No. 18
9 CA ADC 4350

**9 CA ADC 4350.** Contraband Electronic Devices with Communication and Internet Capabilities.

Electronic devices with the capability to connect to a wired (for example, Ethernet, Plain Old Telephone Service (POTS), Fiber Optic) and/or a wireless (for example, Bluetooth, Cellular, Wi-Fi [802.11a/b/g/n], WiMAX) communications network to send and/or receive information are prohibited, including devices without native capabilities that can be modified for network communication. The modification may or may not be supported by the product vendor and may be a hardware and/or software configuration change. Some examples of the prohibited devices include desktop computers, laptop computers, cellular phones, electronic gaming devices, personal digital assistant (PDA), graphing calculators, and radios (satellite, shortwave, CB and GPS).

Note: Authority cited: Sections 4005.1, 4027 and 4101, Welfare and Institutions Code. Reference: Section 4027, Welfare and Institutions Code.

HISTORY

1. New chapter 16 (articles 1-3, section 4350), article 3 (section 4350) and section filed 10-26-2009 as an emergency; operative 10-26-2009 (Register 2009, No. 44). A Certificate of Compliance must be transmitted to OAL by

4-26-2010 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 10-26-2009 order transmitted to OAL 3-23-2010 and filed 4-28-2010 (Register 2010, No. 18).

9 CCR ?? 4350, 9 CA ADC ?? 4350

1CAC

9 CA ADC ?? 4350

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# Memorandum

**Date:** February 5, 2014

**To:** Cliff Allenby, Director (A)

**From:** George Maynard, Deputy Director (A)
Strategic Planning & Implementation

**Subject:** Request for approval of Department of State Hospitals (DSH) Statewide Property Contraband List

In an effort to ensure uniformity among all DSH facilities, and in accordance with Welfare and Institutions Code section 7295, approval of a Statewide Contraband List is required.

This document will also memorialize the decision of the attached "Statewide Property Contraband List" which will establish consistency in controlling and eliminating contraband on hospital grounds statewide ensuring the safety and security of all DSH hospitals.

The attached list has been reviewed and approved by stakeholders including approval by the Executive Team on January 30, 2014.

Director approval of the attached Statewide Property Contraband List is essential for purposes of statewide implementation.

Respectfully,

George Maynard

George Maynard
Deputy Director (A)

APPROVED/DISAPPROVED

Cliff Allenby

CLIFF ALLENBY
DSH Director (A)

# DEPARTMENT OF STATE HOSPITALS

## STATEWIDE PROPERTY CONTRABAND LIST
**Revised: February 5, 2014**

## I. CONTRABAND

A. "Contraband" means materials, articles, or goods that patients are prohibited from having in their possession because such materials, articles or goods present a risk to safety and security in the facility. (Welf. & Inst. Code, § 7295, subd. (i); Cal. Code Regs., tit. 9, § 881, subd. (e).)

B. Items restricted to use only under supervision or control may be considered contraband for the purposes of this list, as they should not be in patient's possession without supervision. All items that are illegal to possess are by default considered to be contraband, whether specifically contained in this list or not. This includes any items prohibited as a condition of parole as it applies to any patient on active parole while housed in a DSH facility:

1. Alarm clocks other than battery operated, made from solid state technology.
2. Alcoholic beverages, any liquid containing alcohol and/or intoxicants, except those items used under direct staff supervision.
3. All illegal drugs, including but not limited to: narcotics, marijuana, hallucinogenic and non-prescribed medications.
4. All smoking and tobacco products, as provided for Welfare and Institutions Code section 4138, including electronic cigarettes commonly referred to as - e-cigarette, electronic vaping device, personal vaporizer (PV), or electronic nicotine delivery system (ENDS).
5. Aluminum foil or items made to include foil.
6. Any item that is being used in an improper manner and / or altered in such a manner as to present a danger to the safety of any patient, staff member, or visitor.
7. Balloons.
8. Blank State of California or other hospital related letterhead or stationary.
9. Cameras.
10. Chemical dispensing control devices, such as mace, pepper spray, or tear-gas.
11. Chewing Gum.
12. Cleaning chemicals, including but not limited to Ammonia, in pure form or any other chemicals not approved by Health and Safety Committee.
13. Combs and hairbrushes exceeding 7 inches in overall length.
14. Combustibles, inflammable liquids or explosives and explosive making materials.
15. Correcting fluid/tape (White-out of any type).
16. Cosmetic pencils requiring sharpening.
17. Dental Floss, except under staff supervision.
18. Detachable external speakers with cords.
19. Disposable razors.
20. Drugs, medicated products or dietary supplements not provided, or specifically

approved by the hospital. Drugs or medications prescribed but not consumed at time of issue, unless specifically approved.**May be approved in special circumstances by each facility**

21. Electronics with wireless capabilities, including but not limited to cell phones, PDAs, tablets and videogame systems with Internet capabilities to comply with California Code of Regulations, title 9, section 4350.
22. Escape devices such as lock picks, devices made capable of opening handcuff/restraint and or any metal fashioned into a lock picking device.
23. Fingernail files, metal over 1.5 inches in length with pointed tip.
24. Gang related or gang identifying items, as identified by the Administration of the facility.
25. Glass, including but not limited to glass mirrors, containers and glass fragments including ceramics, except those items used under direct staff supervision.
26. Headphones with metal in headband.
27. Herbal teas not purchased from canteen or exchange.
28. Hypodermic needles.
29. Identification items or financial payment methods, driver's licenses, birth certificate, bonds, Social Security cards, credit cards, bank books, or any form of identification not provided by the hospital. Exception for those allowed as part of a treatment plan.
30. Incendiary devices, including but not limited to, matches and lighters.
31. Items containing metal bindings, including but not limited to books and binders.
32. Keys, except locker keys issued to DSH-Metro patients.
33. LCD, battery operated appliances, including recording or electronic or mechanical transmitting devices.
34. Luggage, purses or bags with detachable straps.
35. Maps of local and surrounding counties, any source literature, including local maps or electronic devices capable of displaying maps.
36. Material giving instruction on escape, bomb making, bugging, surveillance, surreptitious entry, acts of violence, or any illegal activity.
37. Materials used in tattooing, including but not limited to fountain pens (bulb type).
38. MP3 Players or other devices with voice recording capability, including musical or recordable greeting cards.
39. Non State issued clothing pursuant to California Code of Regulations, title 9, section 890, Exception – personal items such as; shoes, caps, beanies, gloves, scarves, or undergarments that do not meet other contraband criteria.
40. Personal information of any nature (including, but not limited to home address, telephone numbers, and photographs) of any District Attorney, victim, Law Enforcement employee involved in any patients case, any staff member, volunteer, or contract employee of the Department of State Hospitals.
41. Personal property held in quantities exceeding institutional set space limitations.
42. Pictures of the patient alone, or of another patient alone, except for pictures on the patient's hospital identification card. Exception for photographs of the patient as a child or adolescent.
43. Plastic wrap.
44. Portrayals of nudity of a minor, or person who appears to be under 18 years old and/or portrayals of sexual conduct where any of the participants is a minor, or appears to be under 18 years old, as determined by Administrative review.
45. Pressurized air, including but not limited to air horns, air compressors, blow horns, pressurized dispensers and sirens.

46. Radios or scanning/monitoring devices capable of receiving or interfering with law enforcement/fire emergency broadcasts, shortwave or CB radios of any type, satellite radios.
47. Rope, twine, cord, wire and/or jeweler's wire.
48. Sandpaper and emery cloth.
49. Shoe polish or dye
50. Shoelaces when removed from shoe.
51. Shoes with steel shanks, hollow heels or magnetic components.
52. Solvents, including but not limited to paints, lacquers, shellac, and acetone, including acetone based nail polish remover.
53. State issued clothing that has been altered or any clothing displayed in a manner commonly associated with gangs.
54. Styrofoam modified from original form.
55. Sunglasses that are reflective or too dark to assess the patient's eyes; sunglasses with exposed metals (not encased in plastic).
56. Tape, including but not limited to strapping tape or other tapes containing fiberglass or reinforcing fibers.
57. Telephone directories; local community and facility.
58. Thermal cups, except those sold or issued by a facility.
59. Tools or metal utensils not being used under staff supervision
60. Umbrellas.
61. Weapons that can inflict bodily harm, including but not limited to swords, spears, daggers, razor blades, mechanically projected missiles, guns, bullets, ammunition, explosives, scissors, letter openers, drawing compasses, saw blades, metal nail files over 1.5 inches in length, etc. Metal items which could be fashioned into weapons, including but not limited to metal clothes hangers.

Cliff Allenby, Director (A)
Department of State Hospitals

2-5-14
Date

# DEPARTMENT OF STATE HOSPITALS

## STATEWIDE PROPERTY CONTRABAND LIST
Revised: April 2, 2014

I. CONTRABAND

A. "Contraband" means materials, articles, or goods that patients are prohibited from having in their possession because such materials, articles or goods present a risk to safety and security in the facility. (Welf. & Inst. Code, § 7295, subd. (i); Cal. Code Regs., tit. 9, § 881, subd. (e).)

B. Items restricted to use only under supervision or control may be considered contraband for the purposes of this list, as they should not be in patient's possession without supervision. All items that are illegal to possess are by default considered to be contraband, whether specifically contained in this list or not. This includes any items prohibited as a condition of parole as it applies to any patient on active parole while housed in a DSH facility.

1. Any policy, manual, directive or other facility or DSH document deemed to be "Patient Restricted".
2. Any item that is being used in an improper manner and / or altered in such a manner as to present a danger to the safety of any patient, staff member, or visitor.
3. Alcoholic beverages.
4. All illegal drugs, including but not limited to: narcotics, marijuana, hallucinogenic and non-prescribed medications.
5. All smoking and tobacco products, as provided for Welfare and Institutions Code section 4138, including electronic cigarettes commonly referred to as - e-cigarette, electronic vaping device, personal vaporizer (PV), or electronic nicotine delivery system (ENDS).
6. Balloons.
7. Blank State of California or other hospital related letterhead or stationary.
8. Cameras.
9. Chemical dispensing control devices, such as mace, pepper spray, or tear-gas.
10. Cleaning chemicals, including but not limited to Ammonia, in pure form or any other chemicals not approved by Health and Safety Committee.
11. Combs and hairbrushes exceeding 10 inches in overall length.
12. Combustibles, inflammable liquids or explosives and explosive making materials.
13. Correcting fluid/tape (White-out of any type).
14. Detachable external speakers with cords.
15. Drugs, medicated products or dietary supplements not provided, or specifically approved by the hospital. Drugs or medications prescribed but not consumed at time of issue, unless specifically approved.**May be approved in special circumstances by each facility**
18. Electronics with wireless capabilities, including but not limited to cell phones, PDAs, tablets and videogame systems with internet capabilities to comply with California Code of Regulations, title

9, section 4350. Electronics with external audio or video recording capability, including recordable greeting cards.

17. Escape devices such as lock picks, devices made capable of opening handcuff/restraint and or any metal fashioned into a lock picking device.
18. Fingernail files, metal over 1.5 inches in length with pointed tip.
19. Furniture not issued by facility.
20. Gang related or gang identifying items, as identified by the Administration of the facility.
21. Glass, including but not limited to glass mirrors, containers and glass fragments including ceramics, except those items used under direct staff supervision.
22. Headphones with metal in headband.
23. Herbal teas not purchased from canteen or exchange.
24. Hypodermic needles.
25. Identification items or financial payment methods, driver's licenses, birth certificate, bonds, Social Security cards, credit cards, bank books, or any form of identification not provided by the hospital. Exception for those allowed as part of a treatment plan.
26. Incendiary devices, including but not limited to, matches and lighters.
27. Items containing metal bindings, including but not limited to books and binders.
28. Keys, except those issued by DSH staff where applicable.
29. Luggage.
30. Purses or bags with detachable straps.
31. Medical equipment, supply or device not prescribed, approved and provided by the facility.
32. Maps of local and surrounding counties, any source literature, including local maps or electronic devices capable of displaying maps.
33. Material giving instruction on escape, bomb making, bugging, surveillance, surreptitious entry, acts of violence, or any illegal activity.
34. Materials used in tattooing, including but not limited to fountain pens (bulb type).
35. Non State issued clothing pursuant to California Code of Regulations, title 9, section 890. Exception – personal items such as: shoes, caps, beanies, gloves or undergarments that do not meet other contraband criteria.
36. Personal information of any nature (including, but not limited to home address, telephone numbers, and photographs) of any District Attorney, Law Enforcement employee involved in any patients case, any staff member, volunteer, or contract employee of the Department of State Hospitals. (Personal information of any victim is subject to Administrative review and may be considered contraband, depending on the nature of the relationship of the victim to the patient.)
37. Personal property held in quantities exceeding institutional set space limitations.
38. Plastic wrap.
39. Portrayals of nudity of a minor, or person who appears to be under 18 years old and/or portrayals of sexual conduct where any of the participants is a minor, or appears to be under 18 years old, as determined by Administrative review.
40. Pressurized air, including but not limited to air horns, air compressors, blow horns, pressurized dispensers and sirens.
41. Radios or scanning/monitoring devices capable of receiving or interfering with law enforcement/fire emergency broadcasts, shortwave or CB radios of any type, satellite radios.
42. Rope, twine, wire.

43. Sandpaper and emery cloth.
44. Shoe polish or dye
45. Shoelaces when removed from shoe.
46. Shoes with steel shanks, hollow heels or magnetic components. Stilettos or heels above 1 ½".
47. Solvents, including but not limited to paints, lacquers, shellac, and acetone, including acetone based nail polish remover.
48. State issued clothing that has been altered or any clothing displayed in a manner commonly associated with gangs.
49. Styrofoam modified from original form.
50. Sunglasses that are reflective or too dark to assess the patient's eyes; sunglasses with exposed metals (not encased in plastic).
51. Tape not issued by the facility
52. Telephone directories; local community and facility.
53. Tools or metal utensils not being used under staff supervision
54. Umbrellas.
55. Weapons that can inflict bodily harm, including but not limited to swords, spears, daggers, razor blades, mechanically projected missiles, guns, bullets, ammunition, explosives, scissors, letter openers, drawing compasses, saw blades, metal nail files over 1.5 inches in length, etc. Metal items which could be fashioned into weapons, including but not limited to metal clothes hangers.

Cliff Allenby, Director (A)
Department of State Hospitals

Date

ATTACHMENT "A"

## COALINGA STATE HOSPITAL

## CONTRABAND LIST

April 5, 2006

### CLASS 1 – NOT ALLOWED ON HOSPITAL GROUNDS:

Not allowed on hospital grounds unless specifically authorized by the Executive Director. Items in this category are prohibited in all areas of the facility and shall not be brought onto the grounds of the hospital.

1. Illegal drugs
2. Alcoholic beverages
3. Explosives
4. Firearms or ammunition
5. Weapons designed to inflict bodily harm (e.g., swords, spears, daggers)

### CLASS 2 – NOT ALLOWED INSIDE SECURITY:

Unless specifically authorized by the Executive Director, the following items in this category shall not be brought inside the secured areas of the hospital.

1. Chemical dispensing control devices (e.g., Mace, pepper spray, tear gas)
2. Chemicals not approved by the Health and Safety Department (e.g., ammonia)
3. Chewing gum
4. Metal combs
5. Metal files including fingernail files over 1.5 inches long
6. Fountain pens
7. Knives
8. Material giving instructions on escape, bomb making, bugging, surveillance, surreptitious entry, acts of violence

Revised 4/5/2006

9. Balloons

10. Umbrellas (to be stored in Building 20, when holders are installed by Plant Ops)

11. Local city, county regional newspapers or magazines including the Coalinga Register and Fresno Bee.

12. Excess clothing

13. Cellular telephones (State issued are authorized)

14. Flammable liquids

**CLASS 3 – NOT ALLOWED IN PATIENTS' POSSESSION:**

At no time will patients be allowed to have any of the items listed in this category in their possession.

1. Luggage, including gym bags, valises, attaché cases, backpacks or fanny packs (exception is HIMD delivery satchels)

2. Matches of any type or cigarette lighters

3. Alarm clocks, which are not of a battery, operated solid state manufacture.

4. Patient combs, hairbrushes and personal care items not made of a flexible plastic material of less than seven inches in overall length.

5. Personal care product containers, which are not clear permitting a visual inspection of the contents.

6. Herbal teas not purchased from the canteen or from an approved vendor.

7. Drugs or medicated products not provided by the hospital.

8. Keys or key rings

9. Legal documents: identification items or financial payment methods, including but not limited to, driver's license, birth certificates, bonds, Social Security cards, credit cards, bank books, check books, power of attorney, or any form of identification not provided by the hospital.

10. Letter openers that could be used as a weapon.

11. Make-up or material used for make-up.

12. Any sexually explicit image or sexually provocative or nude images of children or any image in violation of the conditions of parole.

13. Maps of Fresno, Kings or Monterey Counties or any source literature providing directions or landmarks of the area.

14. Any material that depicts a rape, beating, sadomasochistic act, child erotica, crime of violence or any photo of a patient's victim.

15. Mirrors

16. Mirrored sunglasses

17. Money, money orders, copies of money, foreign or domestic.

18. Metal picture frames and metal pronged fasteners, paper clips or loose staples other than those left intact in magazines.

19. All personal civilian clothing. Exception: approved tennis shoes.

20. Pictures of the patient alone or of another patient, except for the patient's hospital identification card.

21. Pressurized dispensers

22. Cable boxes, VCR tapes or personal cameras

23. Products that contain an alcohol content sufficient to be considered to be combustible

24. LCD, battery operated devices including recording or electronic or mechanical transmitting devices, personal electrical appliances requiring cords, metal antennas or remote speaker to operate; radios or scanning/monitoring devices capable of receiving law enforcement or fire emergency broadcasts. Allowable items include personal radios and cassette players that are no larger than 5" x 5" x 2" operated with headphones. Headphones are not to be worn or used except on the unit or in a courtyard. Headphones shall not contain steel in the headband and the wire from the headset is limited to not more than 48 inches in length. Headphones shall not have a heavy cord and will not cover the ear in such a way as to block out sound from the environment. Calculators, LCD appliances and program approved electronic games are permitted.

25. Rubber bands
26. Styrofoam in any form
27. Saw blades or jeweler's wire
28. Blank State of California, Department of Mental Health, Coalinga State Hospital or other hospital related letterhead or stationary.
29. Shoehorns
30. Telephone directories
31. Concentrated cleaning chemicals
32. Thermo cups
33. Pens exceeding 3-1/2 inches in length
34. Biohazardous Waste
35. Hair care or cosmetic products containing caustic or toxic chemicals
36. Correction fluid or "White Out"
37. Battery chargers
38. Musical greeting cards
39. Collectable trading cards
40. Spices other than those available through the canteen or dining room
41. Loose shoelaces, rope or cord
42. No bottles of any size or material.
43. Reinforced envelopes
44. Adhesive mailing labels
45. Cardboard
46. Metal foil
47. CD or DVD plastic Jewel Cases

Revised 4/5/2006

3. Metal files
4. Glass, glass containers or ceramics
5. Metal or metal containers.
6. Glue, paints, lacquers, shellacs, acetone or other solvents
7. Rope, twine or cord
8. Ladders
9. Sandpaper or emery cloth
10. Tools
11. Calligraphy pens
12. Pencils under 3 ½ inches

**CLASS 5 – CONTROLLED ITEMS:**

A method of control needs to be exerted on the items listed in this category so that they can be accounted for when necessary. The person issuing the item will be responsible for ensuring that a method for control is present.

1. Sexually explicit or pornographic material shall not be display in a way that is offensive to others.
2. Denture cleaner
3. Dice
4. Musical instruments
5. Phonograph records and cassette tapes
6. Electric razors and cords
7. Shoe polish
8. Tape of any kind
9. Toothbrushes exceeding 4" in length
10. Plastic bags not supplied by the hospital

Revised 4/5/2006

Attachment A

COALINGA STATE HOSPITAL

CONTRABAND LIST

July 9, 2007

**CLASS 1 – NOT ALLOWED ON HOSPITAL GROUNDS:**

Not allowed on hospital grounds unless specifically authorized by the Executive Director. Items in this category are prohibited in all areas of the facility and shall not be brought onto the grounds of the hospital.

1. Illegal drugs.
2. Alcoholic beverages.
3. Explosives.
4. Firearms or ammunition.
5. Weapons designed to inflict bodily harm (e.g., swords, spears, daggers).

**CLASS 2 – NOT ALLOWED INSIDE SECURITY:**

Unless specifically authorized by the Executive Director, the following items in this category shall not be brought inside the secured areas of the hospital.

1. Chemical dispensing control devices (e.g., mace, pepper spray, tear gas).
2. Chemicals not approved by the Health and Safety Department (e.g., ammonia).
3. Chewing gum.
4. Metal combs.
5. Metal files including fingernail files over 1.5 inches long.
6. Fountain pens.
7. Knives.
8. Material giving instructions on escape, bomb making, bugging, surveillance, surreptitious entry, acts of violence.
9. Balloons.
10. Umbrellas (to be stored in Building 20, when holders are installed by Plant Ops).

Attachment A

11. Local city, county regional newspapers or magazines including the Coalinga Record and the Fresno Bee.

12. Excess clothing.

13. Cellular telephones (State issued is authorized).

14. Flammable liquids.

CLASS 3 – NOT ALLOWED IN INDIVIDUALS' POSSESSION:

At no time will individuals be allowed to have any of the items listed in this category in their possession.

1. Luggage, including gym bags, valises, attaché cases, backpacks or fanny packs (exception is HIMD delivery satchels).

2. Matches of any type or cigarette lighters.

3. Alarm clocks, which are not of a battery operated solid state manufacture. Plastic 3" x 5" or smaller.

4. Patient combs, hairbrushes and personal care items not made of a flexible plastic material of less than seven inches in overall length.

5. Personal care product containers, which are not clear permitting a visual inspection of the contents.

6. Herbal teas not purchased from the canteen or from an approved vendor.

7. Drugs or medicated products not provided by the hospital.

8. Keys or key rings.

9. Legal documents; identification items or financial payment methods, including but not limited to, driver's license, birth certificates, bonds, Social Security cards, credit cards, bank books, check books, power of attorney, or any form of identification not provided by the hospital. This includes documents that reveal any type of individual personal credit card/account numbers and/or financial information associated with but not limited to credit card statements, bank statements, etc. Individuals may review this documentation with the Trust office.

10. Letter openers that could be used as a weapon.

11. Make-up or material used for make-up.

12. Any sexually explicit images or sexually provocative or nude images of children or any image in violation of the conditions of parole.

Attachment A

13. Maps of Fresno, Kings or Monterey Counties or any source literature providing directions or landmarks of the area.

14. Any material that depicts a rape, beating, sadomasochistic act, child erotica, crime of violence or any photo of an individual's victim.

15. Mirrors.

16. Mirrored sunglasses.

17. Money, money orders, copies of money, foreign or domestic.

18. Metal picture frames and metal pronged fasteners, paper clips or loose staples other than those left intact in magazines.

19. All personal civilian clothing. Exception: approved tennis shoes; white bandanas, sandals, black wave cap, beanie and knit caps (see AD 826).

20. Pictures of the individual alone or of another individual, except for the individual's hospital identification card.

21. Pressurized dispensers.

22. Cable boxes, VCR tapes or personal cameras.

23. Products that contain alcohol content sufficient to be considered to be combustible.

24. LCD, battery operated devices including recording or electronic or mechanical transmitting devices, metal antennas or remote speaker to operate; radios or scanning/monitoring devices capable of receiving law enforcement or fire emergency broadcasts.

25. Headphones shall not contain steel in the headband and the wire from the headset is limited to not more than 48 inches in length. Headphones shall not have a heavy cord and will not cover the ear in such a way as to block out sound from the environment.

26. External speakers are not allowed.

25. Rubber bands.

26. Styrofoam in any form.

27. Saw blades or jeweler's wire.

28. Blank State of California; Department of Mental Health, Coalinga State Hospital or other hospital related letterhead or stationery.

Attachment A

29. Shoehorns.

30. Telephone directories.

31. Concentrated cleaning chemicals.

32. Thermo cups.

33. Pens exceeding 3.5 inches in length.

34. Biohazardous Waste.

35. Hair care or cosmetic products containing caustic or toxic chemicals.

36. Correction fluid or "White Out".

37. Battery chargers for AAA, AA, C, D, and 9 volt batteries. Chargers that come with Laptops and other approved electrical devices are allowed.

38. Musical greeting cards.

39. Collectable trading cards.

40. Spices other than those available through the canteen or dining room.

41. Loose shoelaces, rope or cord.

42. No bottles of any size or material.

43. Reinforced envelopes.

44. Adhesive mailing labels.

45. Cardboard.

46. Metal foil.

47. CD or DVD plastic Jewel Cases. (cassette jewel cases are allowed)

48. Satellite Radios.

49. Shortwave or CB type radios of any type.

50. Global Positioning System devices of any type.

51. Any electronic devices considered new technology. Electronic items not specifically listed as Allowable, will be considered Contraband.

52. Handkerchiefs or bandannas that are not plain white in color.

Attachment A

53. Sunglasses worn indoors that are not prescribed for treatment of photophobia.

54. Desktop type computers of any type.

55. Telephone Calling Cards.

**CLASS 4 – SUPERVISED ITEMS:**

Only individuals under the direct supervision of a staff member may use the tools and materials listed in this category. It shall be the responsibility of the assigned employee to assure that all items are used for the purpose intended and that each item is accounted for and secured after use. Items in this category may be further limited as to location, time, purpose or any other restriction.

Under appropriate conditions, the following items may be used on units:

1. Aerosol dispensers.

2. Sports, recreational and work assignment equipment that could possible be used as a weapon or as an escape tool.

3. Any ready to use cleaning substances containing potentially harmful ingredients such as bleach, ammonia, alcohol or similar compounds.

4. Drawing compasses.

5. Dental floss.

6. Ink, chalk or pastels.

7. Hypodermic needles.

8. Electric razors will be used.

9. Sandpaper or emery cloth.

10. Safety scissors.

11. Eating or cooking utensils.

12. Electrical appliances not approved for individuals' use (see Class 5 below).

13. Gloves for specific work assignments.

Attachment A

The following items may be used by responsible individuals only in appropriate off unit locations under the direct supervision of staff.

1. Combustibles or flammables.
2. Electronic gear or parts.
3. Metal files.
4. Glass, glass containers or ceramics.
5. Metal or metal containers.
6. Glue, paints, lacquers, shellacs, acetone or other solvents.
7. Rope, twine or cord.
8. Ladders.
9. Sandpaper or emery cloth.
10. Tools.
11. Calligraphy pens.
12. Pencils less than 3.5 inches.
13. Beading needles.

CLASS 5 – CONTROLLED ITEMS:

A method of control needs to be exerted on the items listed in this category so that they can be accounted for when necessary and not allowed when the individual is unknown to the team, presents as unable to responsibly use the item, or there is evidence of misuse. The staff/team issuing the item will be responsible for ensuring that a method for control is present and restrictions are implemented.

2. Denture cleaner.
3. Dice.
4. Musical instruments.
5. Phonograph records, cassette tapes, CDs, CDRWs, and DVDs.
6. Shoe polish.
7. Tape of any kind.

Attachment A

8. Toothbrushes exceeding 4" in length.

9. Plastic bags not supplied by the hospital.

10. Fingernail clippers.

12. Approved personal tennis shoes that are designed with or without laces.

13. All electrical appliances and their cords. These electrical items must be engraved, itemized and labeled.

14. AC adapters.

15. Cordless surge protectors (only single outlet protectors are allowed).

## COALINGA STATE HOSPITAL

## CONTRABAND LIST

Revised: August 2, 2012

**CLASS 1 – NOT ALLOWED ON HOSPITAL GROUNDS:**

Not allowed on hospital grounds unless specifically authorized by the Executive Director. Items in this category are prohibited in all areas of the facility and shall not be brought onto the grounds of the hospital or in possession of individual served.

1. Illegal drugs.
2. Alcoholic beverages.
3. Explosives.
4. Firearms or ammunition (except for law enforcement personnel who are authorized to be in possession of a weapon).
5. Weapons designed to inflict bodily harm (e.g., swords, spears, daggers).
6. Tobacco/Smoking products of any type (e.g. lighters, matches, chewing tobacco; Effective: August 1, 2006) with the exception of approved religious materials. Personal use materials must be kept in personal vehicle.

**CLASS 2 – NOT ALLOWED INSIDE THE SECURED AREA:**

Unless specifically authorized by the Executive Director, the following items in this category shall not be brought inside the secured areas of the hospital or in possession of individual served.

1. Chemical dispensing control devices (e.g., mace, pepper spray, tear gas).
2. Chemicals not approved by the Health and Safety Department (e.g., ammonia).
3. Chewing gum.
4. Metal combs.
5. Metal files including fingernail files over 1.5 inches long.
6. Fountain pens.
7. Knives.

8. Material giving instructions on escape, bomb making, bugging, surveillance, surreptitious entry, acts of violence.

9. Balloons.

10. Umbrellas (to be stored in Building 20)

11. Excess clothing.

12. Staff or Contractor owned personal electronic devices. These items include, but are not limited to: Cellular phones, cameras or audio recording devices, MP3 players, USB Drives, Personal Digital Assistants (PDA), accessories and electronic media of any type. (Any exceptions to this will require the approval of the Executive Director.)

13. Flammable liquids.

14. Glass

15. Metal utensils

16. Medication in excess of daily needs

17. Aluminum foil

18. Perfume

19. Make-up with the exception of (1) lipstick / lip gloss

20. Check books / Personal mail.

<u>CLASS 3 – NOT ALLOWED IN THE INDIVIDUALS' POSSESSION:</u>

At no time will individuals be allowed to have any of the items listed in this category in their possession.

If an individual's accumulation, storage, or arrangement of non-contraband items presents a violation of Fire, Health, Licensing, or other regulation, the individual will be advised of the violation and given the opportunity to correct the violation. Failure to comply, or repeat violations will result in the items being removed from the individual's possession and sent to the Property Center.

Any item found altered from its original configuration or used in an inappropriate manner that would violate the safety and security of the facility will be considered contraband.

1. Luggage, including gym bags, valises, attaché cases, backpacks or fanny packs (exception is HIMD delivery satchels and clear view shave bags as sold in Point X-Change).

2. Matches of any type or cigarette lighters.

3. Patient combs, hair brushes and personal care items not made of a flexible plastic material or with a handle that is greater than seven inches in length.

4. Personal care product containers, which are not clear or opaque, permitting a visual inspection of the contents.

5. Herbal teas not purchased from the canteen or Point X-Change or from an approved vendor.

6. Drugs or medicated products not provided by the hospital. Exception: Vitamins purchased from approved vendor. WRT and Unit Supervisor review and approval are required to ensure no conflict with medical treatment.

7. Keys or key rings.

8. Legal documents: Identification items or financial payment methods, including but not limited to, driver's license, birth certificates, bonds, Social Security cards, credit cards, bank books, check books, power of attorney, or any form of identification not provided by the hospital.

   Note: This includes documents that reveal any type of personal credit card/account numbers and/or financial information associated with but not limited to credit card statements, bank statements, etc; items that would place the individual personal identity at risk of identity theft or used by the owner as a means of currency/trade. Individual may review this documentation with the Trust Office or may submit a request to the Wellness and Recovery Team for review and approval to keep financial statements in their possession.

9. Letter openers that could be used as a weapon.

10. Make-up or material used for make-up.

11. Any sexually explicit images or sexually provocative or nude images of children or any image in violation of the conditions of parole.

12. Maps of Fresno, Kings, San Luis Obispo or Monterey Counties of any source literature providing directions or landmarks of the area.

13. Any material that depicts a rape, beating, sadomasochistic act, child erotica, crime of violence or any photo of an individual victim.

14. Mirrors, with the exception of the mirror sold in Canteen.

15. Mirrored sunglasses.

16. Money, money orders, or copies of money either foreign or domestic.

17. Metal picture frames and metal pronged fasteners, metal telescoping antennas, metal wire, paper clips or loose staples other than those left intact in magazines.

18. Personal clothing. Exception: approved tennis shoes; sandals, with no metal buckles, heels or hard soles; caps, hats, beanies, wave caps and bandanas. Any personal clothing that is worn or displayed in a manner consistent with known gang paraphernalia will be reported to the WRT and DPS for documentation and appropriate investigation.

19. Pictures of the alone or of another, except for the individual hospital identification card.

20. Pressurized or pump spray dispensers.

21. Cable boxes, VCR tapes or personal cameras.

22. Products that contain alcohol content sufficient to be considered to be combustible.

23. LCD, battery operated devices including recording or electronic or mechanical transmitting devices, metal antennas (wire ok) or remote speaker to operate; radios or scanning/monitoring devices capable of receiving law enforcement or fire emergency broadcasts.

24 Headphones shall not contain steel in the headband and the wire from the headset is not to exceed 11.5' cord length. Headphones shall not have a heavy cord and will not cover the ear in such a way as to block out sound from the environment. Wireless headphones shall not have monitoring capability.

25. External speakers are not allowed.

26. Rubber bands, except hair bands as sold in Canteen and Point X-Change.

27. Styrofoam in any form.

28. Saw blades or jeweler's wire.

29. Blank State of California, Department of Mental Health, Coalinga State Hospital or other hospital related letterhead or stationary.

30. Shoehorns.

31. Telephone directories.

32. Concentrated cleaning chemicals.

33. Thermo cups, except clear view cups as sold in Canteen and Point X-Change.

34. Pens or pencils exceeding 3.5 inches in length. Exception: clear plastic pen with a non-removable tube or "bendable" pencils, clear "BIC Ultra Round Stic Grip" pens, #2 pencil without eraser or metal tip, and colored pencils as purchased through the Canteen.

35. Biohazardous Waste.

36. Hair care or cosmetic products containing caustic or toxic chemicals. Exception: approved hair relaxer available through Walkenhorst and hair gel by Spike it.

37. Correction fluid or "White Out".

38. Musical greeting cards.

39. Loose shoelaces, rope or cord (not found in shoes), or non-jewelry grade chain.

40. No glass bottles of any size. Exception: Plastic bottles, including personal care products (as noted in Class 3 No. 5 listed above), and beverage containers not to exceed 2 liters (64 ounces) are allowed.

41. Reinforced envelopes.

42. Adhesive mailing labels.

43. Cardboard (corrugated) and all other cardboard that has been altered from its original use.

44. Metal foil.

45. Satellite Radios.

46. Shortwave or CB type radios of any type.

47. Global Positioning System devices of any type.

48. Any electronic devices that meet the criteria as outlined in CCR Title 9, Section 4350.

49. Sunglasses worn indoors that are not prescribed for treatment of photophobia.

50. Desktop type computers of any type.

51. Telephone calling cards.

52. Booklights, except clear view w/mini light bulb as sold in Point X-Change.

53. Any portion of the Hospital's Administrative Directives or the Department of Mental Health, Special Orders deemed to be **"Patient Restricted"**.

54. Any wire, cable, etc. longer than 11.5 feet.

55. MP3 players or other devices with voice recording capability.

56. Velcro and magnets.

57. Permanent markers.

58. Any item determined to be gang related or gang identifying.

59. Medical equipment not prescribed, approved and provided by a CSH Physician.

**CLASS 4 – SUPERVISED ITEMS:**

Only individual under the direct supervision of a staff member may use the tools and materials listed in this category. It shall be the responsibility of the assigned employee to assure that all items are used for the purpose intended and that each item is accounted for and secured after use. Items in this category may be further limited as to location, time, purpose or any other restriction.

Under appropriate conditions, the following items may be used on units:

1. Aerosol dispensers.

2. Any ready to use cleaning substances containing potentially harmful ingredients such as bleach, ammonia, alcohol or similar compounds.

3. Drawing compasses.

4. Dental floss. Exception: Plastic dental picks are allowed.

5. Ink, chalk or pastels.

6. Hypodermic needles.

7. Sandpaper or emery cloth.

8. Safety scissors.

9. Non plastic eating or cooking utensils.

10. Electrical appliances not approved for individual use (see Class 6 below).

11. Gloves for specific work assignments. Exception: all weather polyester or cotton gloves, approved "sports" gloves, weightlifting gloves must be designated by manufacturer as "weightlifting" glove (no tactical or grappling type gloves allowed).

The following items may be used by responsible individual only in appropriate off unit locations under the direct supervision of staff.

1. Combustibles or flammables.

2. Electronic gear or parts.

3. Metal files.

4. Glass, glass containers or ceramics.

5. Metal or metal containers.

6. Glue, paints, lacquers, shellacs, acetone or other solvents.

7. Rope, twine or cord.

8. Ladders.

9. Sandpaper or emery cloth.

10. Tools.

11. Calligraphy pens.

12. Beading needles.

**CLASS 5 – CONTROLLED ITEMS:**

A method of control needs to be exerted on the items listed in this category so that they can be accounted for when necessary and not allowed when the is unknown to the team, presents as unable to responsibly use the item, or there is evidence of misuse. The staff/team issuing the item will be responsible for ensuring that a method for control is present and restrictions are implemented.

1. Denture cleaner.

2. Dice.

3. Musical instruments.

4. Phonograph records, cassette tapes, CDs, and DVDs.

5. Shoe polish.

6. Tape of any kind.

7. Plastic bags not supplied by the hospital.

8. Fingernail clippers; other than those sold in the Canteen.

9. Approved personal tennis shoes that are designed with or without laces.

10. All electrical appliances and their cords, including battery chargers for AAA, AA, C, D, 9 volt batteries and other approved electrical devices are allowed. These electrical items must be engraved, itemized and labeled.

11. AC adapters.

12. Surge/circuit protectors – Power strip UL listed. Resettable only. No longer than 6'. No more than 6 outlets.

13. Spices – Maximum of 6 ounces. No capsaicin based spices with a rating over 8000 on the Scoville scale.

14. Sports, recreational and work assignment equipment that could possibly be used as a weapon or as an escape tool.

15. Lubricated condoms – Maximum of 2 (more than 2 unopened condoms in a individual possession may be confiscated). Condoms not issued by CSH are considered to be contraband.

# Memorandum

**Date:** April 18, 2014

**To:** Cliff Allenby, Director
Pam Ahlin, Chief Deputy Director

**From:** Audrey King, Executive Director

**Subject:** DSH-C Site Specific Contraband Items (Revised)

Enclosed is Department of State Hospitals-Coalinga's (DSH-C) recommendation for site specific contraband.

Thank you in advance for your consideration.

AUDREY KING
Executive Director
Department of State Hospitals-Coalinga

Attachment

APPROVED: Yes ✓ No _____ Pending Revision _____

* If revision to list is required, please specify:

CLIFF ALLENBY
Acting Director
Department of State Hospitals

5-5-14
Date

## DSH-C Hospital Specific Contraband Justifications

| Item | Justification |
|---|---|
| 1. Money order or copies of money, including foreign currency. | a. Escape risk increase.<br>b. Increased safety and contraband concerns (e.g. staff involvement).<br>c. DSH-C utilizes electronic trust account system. |
| 2. Surge/Circuit protectors/Power Strips, with the exception of OSHA NRTL listed, Resettable with a maximum of 6 outlets. Limit of 2 per patient. | a. Electrical overload<br>b. Fire risk |
| 3. Chewing Gun | a. Jamming Locks<br>b. Safety and Security Risk |
| 4. Aluminum foil or items made to include foil, with the exception of safety seals or food wrappers. | a. Jamming Locks<br>b. Excess foil can be utilized as a cooking surface. |
| 5. Any liquid containing alcohol and/or intoxicants, except those items used under direct staff supervision. | a. Combustible and fire accelerant.<br>b. Fire and Life Safety issue unless under direct staff supervision. |
| 6. Cosmetic items that may alter appearance. Items include but are not limited to cosmetic pencils requiring sharpening, lipstick, eye shadow, etc. Cosmetic items are considered contraband unless ordered by a DSH-C Physician. | a. Unapproved cosmetics increase the risk of escape and pose a security risk to the facility.<br>b. Alter appearance |
| 7. Disposable razors, *except under staff supervision.* | a. Razors pose a safety and security risk to the facility unless utilized under direct staff supervision.<br>b. Can be utilized as a weapon. |

Audrey K King — 4/18/14

Audrey King, Executive Director
Department of State Hospitals-Coalinga

Date

Cliff Allenby — 5-6-14

Cliff Allenby, Director
Department of State Hospitals

Date

**SUBJECT: AUDIO OR VISUAL RECORDING PROCEDURES**

I. PURPOSE

It is the purpose of this hospital to assure reasonable safeguarding of patient's rights to privacy in the use of audio or visual recordings.

II. AUTHORITY

Department of State Hospitals (DSH) Special Order No. 236.01; California Code of Regulations, Title 22, Section 71561; and California Welfare & Institutions Code, Sections 5325.1 and 5328.

III. POLICY

A. It is the policy of the Department of State Hospitals-Coalinga (DSH-C) to assure compliance with each patient in regards to, their rights to privacy and confidentiality when audio or visual recording equipment is utilized. This includes:

1. Video-recording;
2. Audio-recording;
3. Photography; and
4. Filming.

B. For each instance, written informed consent must be obtained from the patient or his legal guardian when he is exposed to any audio or visual recording procedure for any purpose except the following:

1. Patient's identification photograph.
2. When the audio or visual recordings are ordered by the court of jurisdiction.
3. Incidents occurring in the hospital that have the potential to jeopardize the health and/or welfare of the patients or lead to police and/or criminal acts towards patients or staff that may require physical interventions.

4. Audio or visual recordings for investigative purposes must have the approval of the Chief of Police Services or designee.

IV. METHOD

A. The following information shall be given to the patient or his legal guardian in a language that he or she can fully understand prior to obtaining this informed consent for audio or visual recording procedures:

1. A full explanation of the technique or procedure to be used;

2. A description of the purpose for using the procedures;

3. A disclosure of any possible alternative procedures;

4. An identification of who will have access to the audio or visual recordings, and possible future use of the recorded information;

5. A description of the benefits to be expected from using the procedures;

6. A description of any potential discomforts or risks that may accompany the use of the procedures;

7. The manner in which confidentiality of the materials or the documentation will be maintained;

8. Except when recording is an established component of the DSH treatment program, an indication that consent is voluntary and refusal will not jeopardize the privileges, rights, or treatment from the DSH to which the patient is entitled; and

9. An explanation that the patient's consent may be withdrawn at any time and the mechanism for withdrawing such consent.

B. A written informed consent shall be documented on the "Consent for Photographs or Filming" (MH 5650) form and filed in the Clinical Record and shall contain:

1. An indication of the patient's willingness to consent;

2. The signature of a clinician to the informed consent procedure who has determined his competence to provide informed consent; and

3. A statement of the patient's right to privacy and confidentiality.

C. A patient or his legal guardian may withdraw his informed consent for participating in an audio or visual recording procedure at any time, either orally or in writing, by notifying the Executive Director or the patient using the audio or visual recording equipment procedure.

D. The WRT is responsible for reviewing and assuring that the components and intent of this directive are followed.

E. All requests for filming/photography inside and outside the hospital are coordinated and approved by the Public Information Officer (PIO) with the following exceptions:

1. The Chief of Plant Operations may authorize photography or filming for the purpose of conducting essential physical plant related business.

2. The Chief of Police Services/designee may authorize photography or filming for investigative reasons.

3. Approval is not required for members of the public taking pictures of the main entrance, main road area, hospital sign, or picnic area.

*Signature on File w/ A.D. Coordinator*

AUDREY KING
Executive Director

Cross Reference(s):
MH 5650 Consent for Photographs or Filming (Intranet\Approved Forms)

**SUBJECT: AUDIO OR VISUAL RECORDING PROCEDURES**

I. PURPOSE

It is the purpose of this hospital to assure reasonable safeguarding of patient's rights to privacy in the use of audio or visual recordings.

II. AUTHORITY

Department of State Hospitals (DSH) Special Order No. 236.01; California Code of Regulations, Title 22, Section 71561; and California Welfare & Institutions Code, Sections 5325.1 and 5328.

III. POLICY

A. It is the policy of the Department of State Hospitals-Coalinga (DSH-C) to assure compliance with each patient in regards to, their rights to privacy and confidentiality when audio or visual recording equipment is utilized. This includes:

1. Video-recording;
2. Audio-recording;
3. Photography; and
4. Filming.

B. For each instance, written informed consent must be obtained from the patient or his legal guardian when he is exposed to any audio or visual recording procedure for any purpose except the following:

1. Patient's identification photograph.
2. When the audio or visual recordings are ordered by the court of jurisdiction.
3. Incidents occurring in the hospital that have the potential to jeopardize the health and/or welfare of the patients or lead to police and/or criminal acts towards patients or staff that may require physical interventions.

4. Audio or visual recordings for investigative purposes must have the approval of the Chief of Police Services or designee.

IV. METHOD

A. The following information shall be given to the patient or his legal guardian in a language that he or she can fully understand prior to obtaining this informed consent for audio or visual recording procedures:

1. A full explanation of the technique or procedure to be used;

2. A description of the purpose for using the procedures;

3. A disclosure of any possible alternative procedures;

4. An identification of who will have access to the audio or visual recordings, and possible future use of the recorded information;

5. A description of the benefits to be expected from using the procedures;

6. A description of any potential discomforts or risks that may accompany the use of the procedures;

7. The manner in which confidentiality of the materials or the documentation will be maintained;

8. Except when recording is an established component of the DSH treatment program, an indication that consent is voluntary and refusal will not jeopardize the privileges, rights, or treatment from the DSH to which the patient is entitled; and

9. An explanation that the patient's consent may be withdrawn at any time and the mechanism for withdrawing such consent.

B. A written informed consent shall be documented on the "Consent for Photographs or Filming" (MH 5650) form and filed in the Clinical Record and shall contain:

1. An indication of the patient's willingness to consent;

2. The signature of a clinician to the informed consent procedure who has determined his competence to provide informed consent; and

3. A statement of the patient's right to privacy and confidentiality.

C. A patient or his legal guardian may withdraw his informed consent for participating in an audio or visual recording procedure at any time, either orally or in writing, by notifying the Executive Director or the patient using the audio or visual recording equipment procedure.

D. The WRT is responsible for reviewing and assuring that the components and intent of this directive are followed.

E. All requests for filming/photography inside and outside the hospital are coordinated and approved by the Public Information Officer (PIO) with the following exceptions:

1. The Chief of Plant Operations may authorize photography or filming for the purpose of conducting essential physical plant related business.

2. The Chief of Police Services/designee may authorize photography or filming for investigative reasons.

3. Approval is not required for members of the public taking pictures of the main entrance, main road area, hospital sign, or picnic area.

*Signature on File w/ A.D. Coordinator*

AUDREY KING
Executive Director

Cross Reference(s):
MH 5650 Consent for Photographs or Filming (Intranet\Approved Forms)

**SUBJECT: INDIVIDUAL PROPERTY AND STORAGE**

I. PURPOSE

Individuals admitted to Coalinga State Hospital can retain personal property within the limits set forth herein. Factors restricting the type and amount of property include, but are not limited to, security needs, fire regulations, and physical space limitations of this facility.

II. AUTHORITY

California Code of Regulations, Title 22, Sections 71507, 71613, and 73613; California Welfare and Institutions Codes 7288.

III. POLICY

Although the hospital accepts responsibility for safeguarding personal property in storage, personal property in the possession of the individual is their own responsibility and the state assumes no liability for any loss or damage.

IV. METHOD

Property belonging to newly admitted individuals and brought to this facility will be locked in the property box located in the caged portion of the transportation holding area until inspected for contraband by a Department of Police Services Officer. The disposition of incoming individual property and packages is described in Administrative Directive No. 624.

Items deemed contraband are not permitted. Police Services will use the "Receipt for Contraband/Confiscated Items" Form to record disposition of contraband confiscated from newly admitted individuals.

A. Storage of Personal Property Items may be returned to the individual after clearance by Individual Property, to include prescription eyeglasses, hearing aids, dentures, artificial limbs, unopened packages of cigarettes, sealed candy, wedding bands, address books, postage stamps, writing paper, Bibles, and legal papers.

B. Any personal property in excess of the standards allowed in the bed area will be stored in the individual's wall locker. Excess personal items shall be sent to storage, where space is limited to six cubic feet per individual. Individual copies

of legal papers will be accessible within four (4) hours during the normal working hours of the Patient Property staff.

C. Items considered being toxic; combustible, explosive, hazardous, bulky, heavy, or otherwise inappropriate for storage will not be stored.

D. Family members will not be allowed to order packages from vendors not on the Coalinga State Hospital approved Vendor List. Packages from vendors not on the approved Vendor List will be refused and returned.

V. DISPOSITION OF INDIVIDUAL PROPERTY

A. When individuals have articles that are inappropriate for storage, or exceed space limits, provisions for disposition need to be made by the individual, with staff assistance if necessary. Alternatives include:

1. Transferring property to visitors:

   Individuals must make arrangements prior to a visit to have personal items given to their visitor. Items must be boxed, addressed and inventoried (Patient Property Request CSH 005) in the presence of nursing staff. Nursing staff will deliver packages to the information desk. Upon receipt, the visitor will sign the property slip, which is then routed back to the unit. Items made by individuals in MALL service areas shall be stored in the MALL service area, and transferred to the unit by MALL staff the last working day prior to a scheduled visit.

2. Mailing the items to a relative or friend at the individual's expense;

3. Articles can be stored at off-site locations at the expense of the individual. No state funds will be provided for such purposes, except as provided for in Section 7288 of the Welfare and Institutions Code.

4. Articles may be donated to outside sources or organizations. Such transactions need to be coordinated through Central Program Services. The individual and employee shall sign a route slip (property) and a copy denoting the donation kept in the individual's record.

5. Articles can be destroyed. This would have to be coordinated through Patient Property and the Trust Office. Destruction of contraband items will be coordinated through the Department of Police Services.

B. Individuals may not give, trade, barter, or sell any personal articles. Only items identified for donation purposes may be addressed by the Wellness and Recovery Team, approved by a Program Director. After approvals are obtained, Patient Property slips will be addressographed for both individuals and signed by the individuals and Unit Supervisor. The transfer of property will then need to be finalized by a staff member, taking the paperwork to Patient Property for final disposition.

C. Upon discharge, individuals are to take all property with them and to sign an unclaimed property disposition statement about how property is to be handled. Attempts will be made to return any property not taken by the individual, relative, or court. If the hospital is unable to locate an acceptable party, and the individual has provided no other instructions for disposition of the property, it will be disposed of by the hospital. Clothing will be delivered to Clothing Center. Articles deemed by the Trust Officer to have no value will be destroyed. Items of value will be liquidated through a bid process. Money obtained from the sale of the property will be kept in Trust for the individual up to three (3) years, after which, it reverts to the State of California.

## VI. PROPERTY ALLOWED IN AN INDIVIDUAL'S POSSESSION

All individuals are to be advised of and are to follow these rules. Any excess items may be removed from the individual's possession, confiscated, sent to storage, or otherwise disposed of. Administrative Directive No. 818 outlines explicit procedures to be followed when an item that is not specifically listed in Administrative Directive No. 818 is removed from the personal possession of an individual.

A. The following articles may be kept in individual bed areas. In addition to a daily inspection, a more thorough random inspection will be held to ensure sanitation and compliance with items allowed in the bed area.

1. Books and Magazines: Maximum of ten books or magazines in any combination. This includes religious, educational, and therapy books.

2. Stationery/Legal Papers: Two tablets, five envelopes, one pen, and the necessary unit government materials. No more than 3" of legal papers are allowed in the individual's bed area.

3. Letters: Ten letters in wall locker.

4. Newspapers: One newspaper in the locked section of the wall locker.

5. Foods: Foods requiring refrigeration shall not be stored in the individual's bed area.

   a. Short term storage of food items (no longer than 72 hours) that are normally stored without refrigeration, shall be stored in the original package or dated and stored in single use, sandwich size, clear, zip-lock plastic bags.

   b. Longer term food storage: Unopened, see-through/clear packaged food items that do not require refrigeration, may be kept until the expiration date ("use before") on the package.

   c. At any time the unit staff determines that a patient's food storage is excessive, unclean, or a vector attractant, the individual will be required to clean and/or dispose of the stored food items.

6. Radio, Cassette Player, CD, Boom Box, and DVD Players: One battery operated radio and/or cassette player no larger than 5"x5"x2" operated with headphones or one "Boom Box" no larger than 12"Hx20"Lx6"W operated with headphones are allowed. Headphones must be used at all times on the unit or in the courtyards; electrical devices are not to be played outside of the unit or courtyards, violations to this policy will result in your electrical device being sent to storage. No external recording devices are allowed; however, audio equipment which can record directly from an internal source (radio or CD to tape only) is acceptable. No CB or police band is allowed. Alarm function is allowable. All electrical equipment must be battery operated, electrical devices that require electrical cords to operate are not allowed. Detachable cords from approved vendors shall be stored in an individual's property room. Individuals may posses a maximum of twenty (20) batteries at any given time. Earplug style earphones are allowed. One battery operated Portable CD/DVD player that fits inside the lockers is permitted. Detachable or External speakers are not allowed.

7. Tapes, CDRW/CDs/DVDs: A maximum of thirty cassette tapes or CDRW/CD/DVD's will be permitted in the individual's possession. When not in use, they are to be stored in the locked section of the wall locker. A limit of ten (10) handheld video game cartridges.

8. Toilet Articles: One soap dish, one towel, and one soap. Items to be stored in wall locker: One comb, one brush, one tube toothpaste, one washcloth, one toothbrush holder, one deodorant, one shampoo, one conditioner, one hair tonic, one suntan lotion, one lip balm.

9. Clothing Items: (NOTE: Washing of clothing is not permitted on the unit. Washing is permitted only as a treatment activity under staff supervision.)

   a. Two pair of shoes and one pair of shower shoes.

   b. One hat and one cap.

   c. One pair state issued gym shorts.

   d. One state issued jacket.

   e. Any extra underwear shall be stored in the clothing room.

10. State Lottery Tickets: These are the individual's personal property and will be handled accordingly.

11. Pictures: As many pictures as can be placed on a 15"x15" card may be kept on top of the wall locker. A photo album may also be kept. NOTE: Photo albums must comply with all contraband regulations. No pictures of individual's peers.

12. Any other items not classified as contraband: The following are some of the items that can reasonably be expected to be found in wall lockers:

    a. eyeglasses and eyeglass holders;

    b. wallets;

    c. personal calculators;

    d. watches;

    e. pocket or desk calendars;

    f. personal papers, including legal papers (Bedside storage shall not exceed a stack of three inches. Excess paper, including legal paperwork.

13. Wall coverings in the individual's sleeping areas are allowed only when the following criteria are met:

    a. Coverings can only be paper products such as posters, certificates, magazine pictures.

    b. All coverings will be attached to the wall with blue painter's tape.

    c. A maximum of 10 percent of the wall space can be covered.

    d. No coverings will be placed on the ceiling, windows, lights or door.

    e. If at any time contraband is found hidden behind any covering, ALL coverings may be taken down and removed from the unit until the Unit Supervisor deems it appropriate that they be returned.

14. Plants and planters are allowed in sleeping areas only when the following criteria are met:

    a. No more than two planters and/or plants per sleeping area.

    b. The total number of plants, including planters, is not to exceed four cubic feet.

    c. If at any time contraband is found in a planter, ALL plants on the unit may be removed until the Unit Supervisor deems is appropriate that they be returned.

d. All plants are subject to search, including removal from the planter.

e. Individuals may not possess any plant on the contraband list.

15. Stamps: Shall be limited to twenty (20) first class stamps, or equivalent, in possession at one time.

B. Restricted Items:

1. Arts and Crafts Shop materials: No Arts and Crafts shop materials are allowed in the dorms or rooms without the express written permission of the Unit Supervisor. Such items, if contraband, are not permitted at all.

2. No coverings of any type are allowed on the top of the wall locker, i.e., towel, doilies, etc.

VII. MISSING PROPERTY

A. In cases of individuals missing personal property that was lost en route to the hospital, the individual may file a "Missing Property" Form with the Department of Police Services "Missing Property Coordinator."

B. Any individual complaints regarding missing property received by the Patients' Rights Advocate shall be forwarded to the appropriate Program. All other complaints regarding property lost within the hospital shall be referred to the resident Program Director.

W. T. VOSS
Executive Director

Attachment "A" – Allowables List

Cross Reference(s):
A.D. No. 614 Patient Admissions and Reception
A.D. No. 622 Patient Mail
A.D. No. 624 Patient Packages
A.D. No. 644 Trust Office Functions
A.D. No. 818 Contraband
Patients' Rights PMT
Unit Manuals and General Services Procedure Manual

**SUBJECT: INDIVIDUAL PERSONAL COMPUTERS**

I. PURPOSE

This policy establishes guidelines for individual owned laptop computers, computer hardware, computer accessories and software. Use of a personal computer and associated accessories and software is a privilege which is determined by the individual's appropriate safe guarding, usage, and possession of files, disks, and other media.

II. AUTHORITY

California Code of Regulations, Title 15, Division 3, Chapter 1, Article 3, Section 3041.3; and by the Order of the Hospital Executive Director.

III. POLICY

A. This policy applies to the list of allowable personal laptop computers, hardware, accessories and software, which are approved for individuals at Coalinga State Hospital (CSH).

B. Any items that may be deemed a threat to the safety or security of the institution or negatively impact the goals of the individuals' treatment plan are strictly prohibited. Items that shall be prohibited include hardware, accessory or software, or media which enables the individuals:

1. Private communication with other parties by personal computer or electronic device, via any form of wired or wireless capability.

2. Games, movies, electronic images that depict overt sexual acts or violence with adults and children.

IV. METHOD

The method of security, control, and selection of computer components are subject to changes in technology, model availability, and/or obsolescence. The following areas will be monitored for adherence to policy by the Patient Computer Technology Committee. Specific criteria will be described and maintained in an addendum (Attachment "A": Specific Criteria for Individual Laptop Computers) to this Directive.

A. Laptop computers will be purchased through approved vendors. Additional vendors may be added based on the compatibility of equipment to CSH requirements, availability and evaluation by the Individuals / Patient Computer Technology Committee.

B. All external communication capability will be disabled before delivery to the Individuals with the exception of USB, serial, and parallel ports for the use of approved external devices. An acknowledgement form (Attachment "B") describing these modifications shall be signed by the Individual prior to transfer of the laptop computer from the Pt. Property to Information Technology.

C. Computer maintenance will be accomplished through vendor warranty or approved vendor.

D. All hardware, software and accessories will be identified by the manufacturer's serial number on each item or if a serial number is not present the equipment will be permanently identified with the Individual's CSH number. This number will be entered into a hospital wide data base, maintained by the Department of Police Services, prior to being given to the Individuals to ensure an accurate record of accountability for all computer related items within the hospital.

E. Compact Disks (CDRW) will be available for Individual purchase in the Hospital Canteen. CDRWs will be indelibly marked with Individual's CSH number at the time of purchase. The canteen store is the designated vendor of Individual's CDRWs.

F. Portable drives are prohibited.

G. The privilege to use and keep an electrical device on the unit is determined on a case by case basis by the Wellness and Recovery Team with the approval of the Program Director.

H. Access to electricity is governed by AD 658, Individuals' Use of Electricity and Electrical Devices.

I. Central Program Services (CPS) will provide and maintain a centralized printer for Individuals to utilize, at a cost per page printed.

J. Each Individual will be accountable for content on computer drives and the software in their possession.

1. All Individuals must submit to random computer media and software inspections for content that is not considered appropriate and / or contraband for CSH. Individuals will be selected from the hospital computer data base by lot. Specific search for cause will be initiated when there is a reason to suspect the presence of contraband or other conditions involving the Individual's laptop computer that may constitute a breach of the hospital safety of Individuals or employees. This inspection will be conducted by qualified staff.

2. Individuals may not alter installed applications, configurations, or settings that conflict with any hospital policy.

3. Information Technology will be the designated administrator on each individual computer.

K. All computer media will be reviewed by the Hospital Media Review Committee for content.

L. Individual's computers and media may not be loaned and / or utilized by other individuals.

M. Individual computers and media shall be stored in the individual's personal storage locker when not in use by of the individual.

N. Inappropriate, illegal use of, or evidence of tampering with an individual's computer will result in computer confiscation by staff per AD 658. The definition of misuse and a detailed list of misusage of personal computers as well as other electrical devices is included in AD 658, Individual's Use of Electricity and Electrical Devices.

O. Printing: All reproduction of printable material from the individual's laptop computers will be accomplished through a printer service located in CPS. A fee per page will be established and documented in the Specific Criteria Addendum.

P. Media may not be mailed out of the institution, nor given to visitors.

Q. Penal Code 2684 individuals shall not possess a computer as part of their personal property, pursuant to Title 15, 3041.3.

R. This Directive will be reviewed in 6 months by the Patient Computer Technology Committee to evaluate the synthesis of policy, procedure and specific criteria.

V. <u>DEFINITIONS</u>

A. Laptop Computer includes: single component that contains the central processing unit, integral keyboard, disk/compact disk drive, internal battery and monitor.

B. Computer hardware includes: associated power cord, approved connecting devices, external data storage devices.

C. Computer Accessories include: game devices, games controls, CDs, discs and storage cases.

D. Media: Software, DVDs, CDs, games, and data diskettes.

Software includes: Any installed program that generates an operational function for personal computers.

*Signature on File w/ A.D. Coordinator*

W. T. VOSS
Executive Director

ATTACHMENT "A": Specific Criteria for Individual Laptop Computers
ATTACHMENT "B": Individual Personal Computer Policy – Acknowledgement of Modifications

ATTACHMENT "A"

Specific Criteria for Individual Laptop Computers
Revised 7-27-06

The purpose of this addendum is to monitor individual laptop computer equipment, configuration and procedure subject to change from advances in technology, model availability, and/or obsolescence. The Patient Computer Technology Committee will meet monthly to review current or proposed criteria.

| Equipment and /or Procedure | Criteria |
|---|---|
| **CONFIGURATION:** | Display Size: Not to exceed 17 inches diagonal<br>Memory: 2 Gigabyte, internal only<br>Mouse: Integral<br>Keyboard: Integral<br>Drives: Hard Drive - Up to 120 Gigabyte<br>DVD/ CDRW Drive -- available<br>Ports: USB: - available<br>Serial: - available<br>Parallel: - available<br>Operating System: Microsoft OS<br>Battery Source: Single, internal,<br>AC/ Charging Cord One |
| **LAPTOP VENDORS:** | • Recycom Technologies<br>• Dell<br>• Gateway<br>• Hewlett Packard |
| **EXTERNAL COMMUNICATION:** | • Wireless capability is removed by the vendor or Information Technology.<br>• All other external communication ports will be disabled by the vendor or Information Technology. |
| **SECURITY** | • The case of the Laptop Computer will be secured with tamper proof tape. |
| **PRINTERS** | • Printer Service will be conducted in the Print Shop of Central Program Services.<br>• Fee per page will be 5 cents. |

ATTACHMENT "B"

## INDIVIDUAL PERSONAL COMPUTER POLICY – ACKNOWLEDGEMENT OF MODIFICATIONS

Per CSH Administrative Directive 654, individuals may purchase laptop computers for personal use under specific guidelines.

In order to comply with this policy, CSH staff will perform the following steps to laptops prior to being issued to an individual:

- Computer will be started, initial system account created, operating system and included hardware will be reviewed for compliance with policy.
- Modem input jack will be permanently disabled with epoxy (if present).
- Network input jack will be permanently disabled with epoxy (if present).
- Microphone input jack will be permanently disabled with epoxy (if present).
- Wireless network card will be removed (if present).
- Onboard wireless network will have antenna permanently removed (if present).
- Printer driver disk will be copied to Windows Desktop.

Signature below acknowledges understanding and acceptance of the modifications to be made to individually owned laptop computer.

Computer Manufacturer _____ Computer Model _____ Serial# _____

Individual Name _____ Individual Signature _____

Date _____

**SUBJECT: CONTRABAND**

**Cancellation: This directive cancels Administrative Directive No. 818 dated October 11, 2005, same subject.**

I. PURPOSE

To provide staff, patients and all others with the information as to what items will not be permitted, or shall have restrictions placed upon their use or possession within the confines of Coalinga State Hospital. A secondary purpose is to provide a means for amending these listings and to ensure that this information is readily available.

II. AUTHORITY

Special Order 239.02.

III. POLICY

The Executive Director shall require that a listing of contraband items, separated by category, be established, maintained, reviewed and distributed.

IV. METHOD

All material or articles listed as a result of this directive have been determined to be contraband. Items that can reasonably be considered to be dangerous, injurious, or a threat to the security of the hospital shall be immediately removed. Any such item shall be immediately submitted to Police Services for evaluation. This may result in a written request to the Executive Director for possible addition and inclusion to the existing lists of contraband items. When any item not listed is restricted from an individual patient, a Denial of Rights for good cause will be filed.

V. RESTRICTED AND CONTROLLED ITEMS

A. The Executive Director shall cause all contraband items to be listed under specific categories.

B. The completed contraband list will be reviewed not less than quarterly by the Contraband and Technology Transfer Committee and submitted to the Executive Director for review.

1. Suggestions for adding or deleting items to the contraband list, or for changing the contraband category of any item should be submitted in writing directly to the Chief of Police who serves as the chairperson for the Contraband and Technology Transfer Committee.

2. Both the Executive Director and the Chief of Police are authorized to declare an item to be contraband immediately when emergency circumstances are present. The item shall remain to be contraband until reviewed by the next scheduled contraband committee meeting.

C. The resulting contraband list will be given the widest reasonable distribution.

D. It is the responsibility of each employee to remain familiar with these categories and the listed items.

VI. CATEGORIES

A. Class 1 – Items in this category are prohibited in all areas of the facility and shall not be brought onto the hospital grounds unless specifically authorized by the Executive Director.

B. Class 2 - Items in this category shall not be brought inside the secured areas of the hospital unless specifically authorized by the Executive Director.

C. Class 3 – Patients are not allowed to have any of the items listed in this category in their possession.

D. Class 4 – Only patients under the direct supervision of a staff member may use the tools and materials listed in this category. It shall be the responsibility of the assigned employee to ensure that all items are used for the purpose intended and that each item is accounted for and secured after use. Items in this category may be further limited as to location, time, purpose or any other restriction.

E. Class 5 - A method of control needs to be exerted on the items listed in this category so that they can be accounted for when necessary. The person issuing the item will be responsible for ensuring that a method for control is present.

VII. EMPLOYEE RESPONSIBILITIES

A. All personnel shall recognize the importance for the control of contraband. No employee shall knowingly allow contraband onto the grounds of Coalinga State Hospital, or within the secured areas of the facility in violation of this directive.

B. All employees shall receive in-service training on control of contraband during their orientation to the hospital. Additionally, all employees shall receive additional, ongoing or remedial training in accordance with the hospital's training standards.

C. All employees, in conjunction with Police Services, shall be responsible for instructing outside contractors and other service providers in matters relative to contraband and special precautions that shall be taken within the secured areas of the hospital.

D. Personnel shall not bring more medication into the security area than is required for their shift. All employees shall inform their supervisors daily of any medications in their possession while on duty. This applies to both prescribed and over the counter medications.

E. Any missing contraband or lost items which may cause a breach in security or potential danger to patients and staff shall immediately be reported to Police Services. The Department of Police Services shall maintain a record of all reported items and whether they were subsequently recovered or remain missing. The information from these records will be forwarded to the Hospital Administrator on a monthly basis.

## VIII. DISPOSITION

A. Class 1 and Class 2 contraband items, those not allowed on hospital grounds and not allowed inside security, will be disposed of by Police Services in the manner prescribed by law.

B. Class 3 contraband items, those not allowed in patient's possession, may be stored until returned to the patient at the time of his release, mailed, destroyed, or turned over to his guardian. Determination of disposition may be made by the patient if within the rules and regulations of Coalinga State Hospital. Any costs involved with the disposition will be the responsibility of the patient.

C. Class 4 and Class 5 contraband items shall not be returned until adequate supervision or control has been restored.

## IX. CONTROLS

A. All gifts and donations intended for patient use must be cleared through Police Services prior to distribution. Gifts or donations will not be given directly to the patient until approved by Police Services.

B. Newly admitted patients and their property shall be thoroughly searched by Police Services.

C. Any item brought by a visitor to be given to a patient will be treated in the same manner as a package received through the mail.

D. All patients shall be searched when leaving the visiting room.

E. All persons passing through the sallyports are subject to inspection for contraband.

F. All areas of the hospital shall be periodically inspected for contraband. Inspections may be made at any time by Police Services personnel or other employees within their area of responsibility.

G. All contraband items shall be confiscated immediately by a staff member and turned over to Police Services as soon as possible. If, during the course of, or as a result of, a formal shakedown, contraband items are found in a patient's possession, documentation shall be entered into the patient's record. A Special Incident Report may also be required. Should contraband be seized from an employee, appropriate disciplinary action shall be taken.

H. The Canteen will submit proposed or new items to the Contraband and Technology Transfer Committee for review and approval prior to offering them for sale.

I. Should money, cash, or legal tender be found through any means, it will be turned over to Police Services in order to determine if a crime has taken place. If no criminal act is identified, the money will be forwarded to the Cashier's Office for proper disposition.

J. All reports will clearly indicate the transfer, storage, final disposition or destruction of all contraband.

K. When otherwise legal items are taken from any individual by Police Services as evidence or for safekeeping, a receipt will be provided.

W. T. VOSS
Executive Director

Attachment "A" – Contraband List

Cross Reference(s):
A.D. No. 606 Complaint Procedure, Patients
A.D. No. 626 Personal Property
A.D. No. 738 Visiting Regulations
A.D. No. 810 Security Sallyports
A.D. No. 830 Special Incident Reports
A.D. No. 842 Patient Dress Code



DSH065

Coalinga State Hospital

OPERATING MANUAL

SECTION - SECURITY
ADMINISTRATIVE DIRECTIVE NO. 818
(Replaces A.D. No. 818 dated 1/19/07)

Effective Date: July 12, 2007

**SUBJECT: CONTRABAND**

I. PURPOSE

To provide staff, individuals and all others with the information as to what items will not be permitted, or shall have restrictions placed upon their use or possession within the confines of Coalinga State Hospital (CSH). A secondary purpose is to provide a means for amending these listings and to ensure that this information is readily available.

II. AUTHORITY

Department of Mental Health, Special Order 239.02.

III. POLICY

By Order of the Hospital Executive Director, a listing of contraband items, separated by category, be established, maintained, reviewed and distributed.

IV. METHOD

All material or articles listed as a result of this directive have been determined to be contraband. Items that can reasonably be considered dangerous, injurious or a threat to the security of the hospital shall be immediately removed. Any such item shall be immediately submitted to Police Services for evaluation. This may result in a written request to the Executive Director for possible addition and inclusion to the existing lists of contraband items.

V. RESTRICTED AND CONTROLLED ITEMS

A. The Executive Director shall have all contraband items listed in specific categories.

B. The completed Contraband List (Attachment A) will be reviewed not less than quarterly by the Contraband and Technology Transfer Committee and submitted to the Executive Director for review.

1. Suggestions for adding or deleting items to the contraband list, or for changing the contraband category of any item should be submitted in writing directly to the Chief of Police who serves as the chairperson for the Contraband and Technology Transfer Committee.

2. Both the Executive Director and the Chief of Police are authorized to declare an item to be contraband immediately when emergency circumstances are present. The item shall remain contraband until reviewed by the next scheduled contraband committee meeting. Declaration of contraband items shall not directly apply to Law Enforcement Officers while in the performance of their duties.

C. The resulting contraband list will be given the widest reasonable distribution.

D. It is the responsibility of each employee to remain familiar with these categories and the listed items.

VI. CATEGORIES

A. Class 1 – Items in this category are prohibited in all areas of the facility and shall not be brought onto the hospital grounds unless specifically authorized by the Executive Director.

B. Class 2 – Items in this category shall not be brought inside the secured areas of the hospital unless specifically authorized by the Executive Director.

C. Class 3 – Individuals are not allowed to have any of the items listed in this category in their possession.

D. Class 4 – Only individuals under the direct supervision of a staff member may use the tools and materials listed in this category. It shall be the responsibility of the assigned employee to ensure that all items are used for the purpose intended and that each item is accounted for and secured after use. Items in this category may be further limited as to location, time, purpose or any other restriction.

E. Class 5 – A method of control needs to be exerted on the items listed in this category so that they can be accounted for when necessary and not allowed when the individual is unknown to the team, presents as unable to responsibly use the item, or there is evidence of misuse. The staff/team issuing the item will be responsible for ensuring that a method for control is present and restrictions are implemented.

VII. EMPLOYEE RESPONSIBILITIES

A. All personnel shall recognize the importance for the control of contraband. No employee shall knowingly allow contraband onto the grounds of CSH, or within the secured areas of the facility in violation of this directive.

B. All employees shall receive in-service training on control of contraband during their orientation to the hospital. All employees shall receive additional, ongoing or remedial training in accordance with the hospital's training standards.

C. All employees, in conjunction with Police Services, shall be responsible for instructing outside contractors and other service providers in matters relative to contraband and special precautions that shall be taken within the secured areas of the hospital.

D. Personnel shall not bring more medication into the security area than is required for their shift. All employees shall inform their supervisors daily of any medications in their possession while on duty. This applies to both prescribed and over the counter medications.

E. Any missing contraband or lost items which may cause a breach in security or potential danger to individuals and staff shall immediately be reported to Police Services. The Department of Police Services shall maintain a record of all reported items and whether they were subsequently recovered or remain missing. The information from these records will be forwarded to the Hospital Administrator on a monthly basis.

VIII. DISPOSITION

A. Class 1 and Class 2 contraband items, those not allowed on hospital grounds and not allowed inside security, will be disposed of by Police Services in the manner prescribed by law.

B. Class 3 contraband items, those not allowed in the individual's possession, may be stored until returned to the individual at the time of his release, mailed, destroyed, or turned over to his guardian. Determination of disposition may be made by the individual if within the rules and regulations of CSH. Any costs involved with the disposition will be the responsibility of the individual.

C. Class 4 and Class 5 contraband items shall not be returned until adequate supervision or control has been restored.

IX. CONTROLS

A. All gifts and donations intended for individual use must be cleared through Police Services prior to distribution. Gifts or donations will not be given directly to the individual until approved by Police Services.

B. Newly admitted individuals and their property shall be thoroughly searched by Police Services.

C. Any item brought by a visitor to be given to an individual will be treated in the same manner as a package received through the mail.

D. All individuals shall be searched when leaving the visiting room.

E. All persons passing through the sallyports are subject to inspection for contraband.

F. All areas of the hospital shall be periodically inspected for contraband. Inspections may be made at any time by Police Services personnel or other employees within their area of responsibility.

G. All contraband items shall be confiscated immediately by a staff member and turned over to Police Services as soon as possible. If, during the course of, or as a result of, a formal shakedown, contraband items are found in an individual's possession, documentation shall be entered into the individual's record. A Special Incident Report may also be required. Should contraband be seized from an employee, appropriate disciplinary action shall be taken.

H. The Canteen will submit proposed or new items to the Contraband and Technology Transfer Committee for review and approval prior to offering them for sale.

I. Should money, cash, phone cards of any type, or legal tender be found through any means, it will be turned over to Police Services in order to determine if a crime has taken place. If no criminal act is identified, these items will be forwarded to the Trust Office for proper disposition.

J. All reports will clearly indicate the transfer, storage, final disposition or destruction of all contraband.

K. When otherwise legal items are taken from any individual by Police Services as evidence or for safekeeping, a receipt will be provided.

BEN MCLAIN
Executive Director (Acting)

Cross Reference(s):
A.D. No. 606 Complaint Procedure, Individuals
A.D. No. 626 Individuals' Property and Storage
A.D. No. 664 Individuals' Personal Computers
A.D. No. 666 Individual's Use of Electricity and Electrical Devices
A.D. No. 738 Individual Visiting Regulations
A.D. No. 810 Security Sallyports
A.D. No. 830 Special Incident Reports
A.D. No. 842 Individuals' Dress Code and Clothing Regulations

Attachment A – Contraband List

Department of State Hospitals - Coalinga

# Patient Care Policy Committee Minutes

Date: February 13, 2018 Convened: N/A

Location: Electronic Vote Adjourned: N/A

| Committee Members | Present | Absent |
|---|---|---|
| **Chairperson:** Janine Wallace | ☐ | ☒ |
| **Facilitator:** Janine Wallace | ☐ | ☒ |
| Clinical Administrator: Jennie Porter | ☒ | ☐ |
| Medical Director: Robert Withrow | ☒ | ☐ |
| Nurse Administrator: Kiran Hundal | ☒ | ☐ |
| Social Work Chief: Erich Leslie | ☒ | ☐ |
| Rehabilitation Chief: Frank Maul | ☒ | ☐ |
| Public Information Officer: Karen Trumbly | ☒ | ☐ |
| QID Director: Dennis Mitchell | ☒ | ☐ |
| Psychology Chief: Jennifer Berg | ☒ | ☐ |
| Psychiatry Chief: Peter Lavalle (A) | ☒ | ☐ |
| **Recorder:** Jennifer Maul, AMHS | ☒ | ☐ |
| **Guests** | | |
| | ☐ | ☐ |
| | ☐ | ☐ |

**Consent Agenda:**

I. **Approval of Minutes:**
Minutes from 1/9/18 were approved via electronic committee vote.

II. **Task Assignment Log:** N/A

III. **Discussion Agenda:**

A. ADs for Consent – 16 ADs

134 Facility Program Plan for Services
306 Life Safety Management Program
326 Fire Inspections
343 Medical Emergency Response Plan
362 Hazard Communication Program
408 By Choice Incentive System
434 Active Treatment Interventions
548 Screening for Possible Movement Disorders Related to Neuroleptic Medication
572 Physical, Occupational and Speech/Language Therapy (POST) Service
575 Aspirations and Dysphagia Management
652 Overtime Meal Tickets/Allowance
710 Vector Control
740 Heat Related Plan
758 Property Loss Claims-Patients, Staff and Visitors
768 Reportable Events to DSH and CDPH
858 Key Control

Discussion: No
Task: None
Outcome: All ADs were approved by the committee via electronic vote.
Owner: Various
Open Discussion: No

B. ADs for Review – 7 ADs

The following ADs were reviewed by the committee:

141 Risk Management
- Revisions on Attachment C
- AD was approved with listed revisions by the committee via electronic vote

438 Clinical Outcome Evaluation System
- Revisions on p. 1
- AD was approved with listed revisions by the committee via electronic vote

568 Staffing
- Revisions throughout and Attachment B
- AD was approved with listed revisions by the committee via electronic vote

654 Individual Personal Computers
- Recommended for deletion by author/ED
- AD was approved for deletion by the committee via electronic vote

820 Search Policy and Procedures *(PP from 12/12/17)*
- Revisions throughout
- AD was approved with listed revisions by the committee via electronic vote

934 Substance Abuse Testing (Including Employees in Sensitive...) *(PP from 1/9/18)*
- Recommended to be postponed to 3/13/18.
- AD was approved to be postponed by the committee via electronic vote

937 Pre-Employment Drug Testing at State Hospitals *(PP from 1/9/18)*
- Recommended to be postponed to 3/13/18.
- AD was approved to be postponed by the committee via electronic vote

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Discussion: No
Task: None
Outcome: AD 654 was approved for deletion, 934/937 were approved for postponement to 3/13/18, and all others were approved with listed revisions via committee electronic vote.
Owner: 654-TSD Manager and 934-937-HR Manager
Open Discussion: No

C. Additional Items for Discussion: No

IV. **Next Meeting:** 3/13/18 at 3:00 in the Executive Conference Room.

Finalized minutes approved on: 3/13/18 (Date) by the: Patient Care Policy Committee (Committee)

Committee Chairperson: Janine Wallace, HA (Name & Title)

DSH-C 194C (Rev. 12/2012)

CALIFORNIA DEPARTMENT OF
# Mental Health
## Coalinga State Hospital

**Memorandum**

To: All CSH Staff
All CSH Individuals

Date: February 28, 2007

From: Patient Computer Technology Committee

Subject: INDIVIDUAL OWNED COMPUTER EQUIPMENT - IMMEDIATE MORATORIUM ON NEW PURCHASES

By order of the Executive Director, there is an immediate moratorium on the purchase of individual owned computer equipment & software previously allowed in accordance with AD 654.

The existing program was a test case to allow for the use of computer equipment to enhance the therapeutic environment for individuals in our care. However, due to the high rate of policy violations, an immediate moratorium is being placed on this program. Violations of use & content have included:

- Widespread distribution of pornographic material
- Audio recording of staff & individual conversations
- Widespread illegal distribution & sharing of copyright protected materials
- Widespread distribution & sharing of data encryption software
- Widespread distribution & sharing of data concealing software
- Computerized street map & atlas software

In accordance with this moratorium, any pending orders should be cancelled immediately and no additional computer equipment received should be issued to individuals.

Coalinga State Hospital will be installing state owned computer stations in each unit quiet room that will be available to all individuals on each unit. This equipment has been ordered and will be implemented as materials & equipment become available.

The disposition of existing individual owned equipment will be discussed with the Patient Advisory Council for determination of further policy direction.

Individuals with questions concerning this moratorium should submit those to their Unit Supervisor who will forward to the Patient Computer Technology Committee for clarification or consideration.

# STATE OF CALIFORNIA

2008 AUG 27 PM 2:52

# OFFICE OF ADMINISTRATIVE LAW

## 2008 OAL DETERMINATION NO. 23
## (OAL FILE # CTU 2008-0314-01)

**REQUESTED BY:** Michael St. Martin

**CONCERNING:** Administrative Directive 818 concerning contraband issued by Coalinga State Hospital, Department of Mental Health.

Determination Issued Pursuant to Government Code Section 11340.5.

## SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of a "regulation" as defined in Government Code section 11342.600[1] and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of a "regulation," but was not adopted pursuant to the APA and should have been, it is an "underground regulation" as defined in California Code of Regulations, title 1, section 250.[2] OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

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[1] Government Code section 11342.600 states:

> "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

[2] California Code of Regulations, title 1, section 250, subdivision (a) defines "underground regulation:"

> "Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

## ISSUE

On March 14, 2008, Mr. St. Martin (Petitioner) submitted a petition to OAL challenging Administrative Directive 818 (AD 818) issued by Coalinga State Hospital (CSH), a state hospital under the jurisdiction of the Department of Mental Health (Department). AD 818 is titled "Contraband" and includes lists of items which patients at CSH may not possess in various specified areas of CSH.[3] The Petitioner alleges that AD 818 meets the definition of a "regulation" and should have been adopted pursuant to the APA.

## DETERMINATION

OAL determines that AD 818 meets the definition of a "regulation" as defined in Government Code section 11342.600 and should have been adopted pursuant to the APA.

## FACTUAL BACKGROUND

CSH is a state mental health hospital, under the jurisdiction of the Department.[4] CSH, like other state mental hospitals, has limited authority to act as an independent entity. The responsibility of governing all state mental hospitals lies with the Department. Welfare and Institutions Code section 4101 provides that:

> ...all of the institutions under the jurisdiction of the State Department of Mental Health shall be governed by uniform rule and regulation of the State Department of Mental Health....

The patients in CSH are "non-LPS" patients, that is, patients who are placed in or committed to CSH pursuant to legal authority *other than* the Lanterman-Petris-Short LPS) Act,[5] commencing with Section 5000, of Part 1, Division 5 of the Welfare and Institutions Code. For example, Welfare and Institutions Code section 6600 and following, the Sexually Violent Predator Law, provides that inmates of the Department of Corrections and Rehabilitation who are found by a court to be sexually violent predators

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[3] A copy of AD 818 is included as Exhibit 1.

[4] Welfare and Institutions Code section 4100 states:

> The department [of Mental Health] has jurisdiction over the following institutions: ... (b) Coalinga State Hospital....

[5] Pursuant to Welfare and Institutions Code section 5001, the Lanterman-Petris-Short Act provides for care for mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism. CSH does not have an LPS population. According to the Department's website (http://www.dmh.ca.gov/Services_and_Programs/State_Hospitals/Coalinga/Director.asp, viewed on August 21, 2008), CSH is described as a maximum-secured forensic facility that holds both sexually violent predators and mentally ill inmates from the California Department of Corrections and Rehabilitation.

are committed as a patient of the Department. The Department places the patient in an appropriate facility.[6]

On July 12, 2007, the Acting Executive Director of CSH, Ben McLain, issued AD 818. AD 818 states that the purpose of the directive is to:

> ... provide staff, individuals and all others the information as to what items will not be permitted, or shall have restrictions placed upon their use or possession within the confines of Coalinga State Hospital (CSH). A secondary purpose is to provide a means for amending these listings and to ensure that this information is readily available.

AD 818 establishes five categories of contraband:

- Class 1, Items not allowed on hospital grounds.
- Class 2, Items not allowed inside security.
- Class 3, Items not allowed in individuals' possession.
- Class 4, Supervised items.
- Class 5, Controlled items.

AD 818 details how contraband is to be disposed of, the process for establishing and amending the list of contraband items, steps to be taken when visitors bring items to the hospital, the responsibilities of employees in dealing with contraband items, and how contraband items will be controlled.

AD 818 includes Attachment A, revised July 9, 2007, which is a comprehensive list of contraband items for each of the five classes. For example:

- Class 1 includes illegal drugs, explosives and firearms.
- Class 2 includes chemical dispensing control devices (mace, pepper spray, etc.), chewing gum, metal combs, fountain pens, balloons and newspapers.
- Class 3 includes luggage, cigarette lighters, herbal teas, keys, certain legal documents, make-up, sexually explicit or provocative images, maps of the local area, mirrors, rubber bands and Styrofoam.
- Class 4 includes items which may be used only under direct supervision of a staff member, such as aerosol dispensers, drawing compasses, dental floss, and sandpaper.
- Class 5 includes denture cleaner, die, musical instruments, tape of any kind, fingernail clippers, and electrical appliances and their cords.

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[6] Welfare and Institutions Code section 6604 states:

> ...If the court or jury determines that the person is a sexually violent predator, the person shall be committed for an indeterminate term to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility designated by the Director of Mental Health.

On June 16, 2008, OAL received a response from the Department. The Department argues that AD 818 does not meet the definition of a regulation for the following reasons:

1. AD 818 is not a regulation. Instead, the AD is a guide of what items would be considered contraband for the specific facility. AD 818 does not apply generally and does not "implement, interpret, or make specific" any statute.
2. AD 818 provides for safety and security.
3. AD 818 is exempt from the requirements of the APA.
4. The issuance of AD 818 is similar to a "local rule" issued by a state prison and exempted from the APA by Penal Code section 5058.

OAL received several comments from the public. The commenters agreed with the Petitioner that AD 818 meets the definition of regulation and should be adopted pursuant to the APA.

On June 27, 2008, OAL received a rebuttal to the Department's response. The rebuttal does not raise additional issues relevant to this determination.

## UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), prohibits state agencies from issuing rules unless the rules comply with the APA:

> (a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of Government Code section 11340.5 it creates an underground regulation as defined in title 1, California Code of Regulations, section 250.

OAL may issue a determination as to whether or not an agency issued, utilized, enforced, or attempted to enforce a rule that meets the definition of a "regulation" as defined in Government Code section 11342.600 that should have been adopted pursuant to the APA. An OAL determination that an agency has issued, utilized, enforced, or attempted to enforce an underground regulation is not enforceable against the agency through any formal administrative means,[7] but it is entitled to "due deference" in any subsequent

[7] We note that the Department's response included a request that, if OAL finds that AD 818 does meet the definition of a regulation, OAL will continue to allow the Department to continue use of AD 818 until regulations can be promulgated to avoid significant disruptions at CHS and to ensure the safety and

litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 268 Cal.Rptr. 244.

To determine whether an agency issued, utilized, enforced, or attempted to enforce an underground regulation in violation of Government Code section 11340.5, it must be demonstrated that the agency rule is a "regulation" and not exempt from the APA.

## ANALYSIS

A determination of whether the challenged rule is a "regulation" subject to the APA depends on (1) whether the challenged rule meets the definition of a "regulation" within the meaning of Government Code section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

A regulation is defined in Government Code section 11342.600 as:

> . . . every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571, the California Supreme Court found that:

> A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure (Gov. Code, § 11342, subd. (g)).

The first element of a regulation is whether the rule applies generally. AD 818 applies to all patients at CSH, their visitors and employees of CSH. As *Tidewater* points out, a rule

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security of the patients and staff at CSH. A determination issued pursuant to Government Code section 11340.5 is OAL's legal opinion of whether a rule meets the definition of a "regulation" that should have been adopted pursuant to the APA. OAL has no enforcement powers. Only a court of competent jurisdiction can issue such an order. For example, as noted in the DMH response, in *Morning Star Co. v. State Board of Equalization* (2006) 38 Cal.4th 341, the court found a fee system should have been adopted pursuant to the APA, however, it directed that the fee system be continued in effect until valid regulations could be promulgated.

need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons or situations. Patients, visitors and employees of CSH are clearly defined classes of persons. The first element is, therefore, met.

The second element established in *Tidewater* is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency's procedure.

As noted above, Welfare and Institutions Code section 4100 states that the Department has jurisdiction over CSH. In addition, Welfare and Institutions Code section 4027 states:

> The State Department of Mental Health may adopt regulations concerning patients' rights and related procedures applicable to the inpatient treatment of mentally ill offenders receiving treatment pursuant to Sections 1026, 1026.2, 1364, 1370, 1610, and 2684 of the Penal Code, Section 1756 of the Welfare and Institutions Code, persons receiving treatment as mentally disordered sex offenders, and inmates of jail psychiatric units.[8]

AD 818 establishes categories of contraband property and controls the possession and disposal of that contraband property. AD 818 directly affects patients' rights by establishing, among other things, what may or may not be possessed by a patient at CSH. Further by detailing how contraband is disposed of, the process for establishing and amending the contraband list, the responsibilities of CSH staff in dealing with the contraband, the Department is establishing "related procedures". Accordingly, AD 818 implements Welfare and Institution Code section 4027. The second element in *Tidewater* is, therefore, met.

Having met both elements of *Tidewater*, OAL determines that AD 818 meets the definition of "regulation" in Government Code section 11342.600.

The final issue to examine is whether AD 818 falls within an exemption from the APA. Government Code section 11346 requires that an exemption from the APA must be an express statutory exemption. We can find no express APA exemptions that would apply to AD 818.

## AGENCY RESPONSE

In its response, the Department makes four arguments for finding that AD 818 does not meet the definition of a regulation. We will address each argument in turn.

1. AD 818 is not a regulation. Instead, the AD is a guide of what items would be considered contraband for the specific facility. AD 818 does not apply generally and does not "implement, interpret, or make specific" any statute. AD 818 is not quasi-legislative.

[8] These sections discuss non-LPS patients of state hospitals.

As noted above, the *Tidewater* case does not require that all persons in the state be affected by the rule. Rather, it is enough that the rule apply to a clearly defined class of persons. AD 818 prohibits the possession by patients of items specified as contraband. It limits the items which may be sent to patients by friends and family. AD 818 is a rule that applies generally because it declares how a certain open class of cases, those involving the possession of contraband, will be decided.

Furthermore, as discussed above, AD 818 implements, interprets or makes specific Welfare and Institutions Code section 4027 which gives authority to the Department to adopt regulations concerning patients' rights.

Finally, AD 818 is "quasi-legislative," *Tidewater* states that:

> A written statement of policy that an agency intends to apply generally, that is unrelated to a specific case, and that predicts how the agency will decide future cases is essentially legislative in nature even if it merely interprets applicable law.[9]

AD 818 lists items which are contraband and which will be confiscated from the patients. The Department intends AD 818 to apply generally to patients at CSH and their families and friends. AD 818 states how the Department will decide all future cases of contraband property. Therefore, it is quasi-legislative action on the part of the Department and is subject to the APA.

2. AD 818 provides for safety and security.

The Department argues that California Code of Regulations, title 9, section 883 establishes a right for patients to be free from harm. The contraband list is intended to ensure that dangerous items do not present a risk to the safety and security in the facility.

OAL sympathizes with the need to ensure the safety and security of the state hospitals and the people who live and work there. However, this determination is limited to the single issue of whether AD 818 meets the definition of a regulation. We have no authority to create an exemption from the APA based upon the situation found in state hospitals. That is the purview of the Legislature pursuant to Government Code section 11346.

3. AD 818 is exempt from the requirements of the APA, pursuant to California Code of Regulations, title 9, section 884 which permits each state hospital to adopt a list of contraband items.

California Code of Regulations, title 9, section 884(b)(1) states:

> ....
> (b) Non-LPS Patients have the following rights, subject to denial for good cause:
> (1) A right to keep and use personal possessions as space permits, except items and materials that are listed as contraband by the facility. Each facility shall make a copy of the contraband listing available on all

[9] *Tidewater, supra,* at 574-575

> treatment units and public areas within the facility. Each patient shall receive a copy of the contraband listing upon admission.
>
> ....

AD 818, however, goes beyond a mere list of contraband items. AD 818 contains requirements for how contraband is to be disposed of, the process for establishing and amending the list of contraband items, steps to be taken when visitors bring items to the hospital, the responsibilities of employees in dealing with contraband items, and how contraband items will be controlled. It would not, therefore, be exempt from the APA.

Additionally, a state agency cannot, by regulation, create an APA exemption. Pursuant to Government Code section 11346, an exemption must be expressly created by the Legislature. The language of section 884 requires that the state hospital distribute and make available on all treatment units and public areas a list of contraband items. Absent an express exemption created by the Legislature, such a list must be adopted by the Department pursuant to the APA. The Department could adopt one list that applies to all state hospitals, or separate lists that apply to the individual state hospitals.

4. The issuance of AD 818 is similar to a "local rule" issued by a state prison and exempted from the APA by Penal Code section 5058.

In Penal Code section 5058 the Legislature recognized that each prison under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR) may have specific conditions unique to that prison. In such cases, the individual prison may adopt rules to address those conditions without following the requirements of the APA. The situation that the Department faces is very similar to that of CDCR; however, Penal Code section 5058 applies only to CDCR and not to the Department. The adoption of a similar "local rule" exemption for DMH is a decision left to the Legislature.

## CONCLUSION

AD 818 meets the definition of a "regulation" as defined in section 11342.600, does not fall within any express statutory APA exemption, and therefore, it should have been adopted pursuant to the APA.

Date: August 27, 2008

Susan Lapsley
Director

Kathleen Eddy
Senior Counsel

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225

[redacted]

**DSH-Napa Hospital Specific Contraband**
**Effective July 24, 2014**
**NOTE: DSH Napa's Specific Contraband list follows the approved Statewide Contraband list and these two lists must be reviewed together to ensure full compliance with restricted items.**

| Item | Description |
|---|---|
| Factory Sealed | All items must be shipped direct from a vendor. Exception for books. |
| Aluminum Foil | Not allowed: staff or patients. |
| Antenna, Digital (flat antenna) | Limit is one (1). Telescoping antennas not allowed. Must be similar to type offered via Walkenhorst's. |
| Art, Craft Supplies | Potential tools, e.g., paints, glue or colored pencils longer than 3" are controlled. Crochet hooks, knitting needles, yarn, string can be ordered but can only be received/used at OT Shop or Mall with staff observation. |
| Audio-Visual Cables/AC Adaptors | Cable length is limited to 6 feet. Cables and adapters limited to those needed for equipment. Replacement of cables and AC Adaptors allowed via exchange of old cables for new cables at Package Center. |
| Batteries | Batteries in personal control shall be stored in the items they are for. Staff are to recycle batteries when replaced. |
| Beard Trimmers | May be purchased and sent in by vendor are controlled and supervised. On Discharge Units are not controlled or supervised. |
| Bedding | Blankets, comforters, bed spreads no larger than standard twin size. Personal sheets limited to Discharge Units |
| Bicycles | DSH-N Bicycles are available for patient use |
| Blow Dryers and Curling Irons | Are controlled and supervised. |
| Chewing Gum | Not allowed |
| *Computers – laptops or desk tops | Not allowed *(Until further notice, patients with computers may retain them; replacement, upgrades or repairs are not allowed.) |
| Cosmetic Pencils | Must be self-sharpening are controlled and supervised. On Discharge Units are not controlled or supervised. |
| Data Storage Devices | All Data Storage Devices (i.e., IPOD Shuffle, MP3 players, thumb drives, etc.) are subject to random inspections for contraband materials |
| Dental Floss | Controlled Item |
| Disposable Razors | Disposable razors are not allowed. Electric shavers only and are controlled and supervised. May be purchased or sent in by vendor. Otherwise supplied by DSH-N. Old shaver head must be turned in at the time |

C = Controlled Item (must be checked in/out by staff) and S = Supervised Item (requires direct staff supervision when in use)

DSH-Napa Hospital Specific Contraband
Effective July 24, 2014

| Item | Description |
|---|---|
| | the replacement head is issued. |
| Fans | Limit to plastic battery operated fans |
| Finger Nail Files – Metal | Not allowed |
| Hair Color and Straightener | Must come through Package Center only; will go directly from there to the Beauty Shop for use under supervision. |
| Hairbrushes, Hair Picks and Combs | Plastic only. Handles are not permitted. |
| Headphones | Headphone cord length, maximum 8 feet. No metal. No wireless capabilities. Purchased through vendor. |
| Hygiene Products | Limit is three (3); deodorant, boxes of Kleenex, boxes of sanitary pads, boxes of tampons, Lectric Shave, non-aerosol products, pump only for both men and women. No glass containers. **Alcohol based products are supervised items. |
| Jewelry | Necklaces not allowed.<br>Bracelets single strand only.<br>Rings no sharp edges, no oversized or protuberances and only two (2) can be worn on one hand at any time.<br>Earrings must be flat and no larger than a quarter. |
| Money | Money order or copies of money, including foreign currency. Paper money. Coin in excess of $18. |
| Nail Polish and Nail Polish Removal | Maximum of five (5) colors. Nail polish remover non-acetone only. No glass, clear plastic container.<br>Controlled and supervised items. |
| Nose Hair Trimmers | May be purchased and sent in by vendor: are controlled and supervised.<br>On Discharge Units are not controlled or supervised. |
| Pen, Ball Point | State issued plastic "Short" pen, 3.5 inches long with non-removable tube.<br>Long Pens/standard size pens are approved for Patients residing on Discharge Units, limit 8. |
| Plastic Bag - Zip Lock | One Gallon size; 12"X12" or smaller, clear in color. Bags must be in use to be in patient possession. Bags not in use are controlled item. |
| Pornography | Not allowed. Examples include:<br>**Movies** rated more restrictive than R or movie with advisory of graphic sexual content is prohibited. This would include NC17 and more restrictive)<br>**Magazines** not legally available for purchase by people under the age of 18.<br>**Video Games** rated M, Mature, or rated A, Adults Only, with content descriptors of Mature Humor, |

C = Controlled Item (must be checked in/out by staff) and S = Supervised Item (requires direct staff supervision when in use)

[redacted]

## DSH-Napa Hospital Specific Contraband
## Effective July 24, 2014

| Item | Description |
|---|---|
| | Nudity, Sexual Violence, Strong Lyrics, Strong Sexual Content, |
| **Remote Controls** | Remotes must match item. |
| **Shoe Laces** | Shoe laces may be checked out for organized sports activities and vocational assignments. |
| **Socks** | No higher than mid-calf and no 100% nylon. |
| **Stamps** | Limit of two (2) books of first class stamps. Pre-stamped embossed envelopes may be substituted for stamps |
| **Surge/Circuit Protectors** | Limit one (1) surge/circuit protectors-power strip per patient. Must be OSHA NRTL listed. Resettable only. No more than 6 outlets. |
| **Sweat Bands, Head and Wrist** | For use in exercise and sporting activities, controlled item. |
| **Tattooing Materials** | Chess pieces limited to plastic with maximum height of 4". Nose hair trimmers and electronic shavers are controlled items. |
| **Toothbrush** | State issued plastic or flexible no longer than 3". (for example Walkenhorst Item #54666-005). Limit for purchase: three (3); extras to be kept in personal canteen storage container. |
| **Undershorts Underwear (Men)** | Forensic Patients: Any color briefs or boxer briefs allowed. Boxers can only be white |

C = Controlled Item (must be checked in/out by staff) and S = Supervised Item (requires direct staff supervision when in use)

**DECLARATION OF SERVICE BY E-MAIL and U.S. Mail**

Case Name: **Saint-Martin v. Price**
No.: **1:18-cv-00123-DAD-SKO**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On July 3, 2018, I served the attached Defendant's Initial Disclosure Statement by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Janice M. Bellucci, Esq.
1215 K Street, 17th Floor
Sacramento, CA 95814
**E-mail Address:** jmbellucci@aol.com

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 3, 2018, at Sacramento, California.

Julie Hutcherson
Declarant

Signature

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